DOCUMENT RESUME

ED 270 944 EC 182 945

AUTHOR	Hinkle, Paul D.
TITLE	California Special Education Programs: Education Code--Part 30 and Other Related Laws. Revised to Cover Laws Enacted During 1985. Eighth Edition.
INSTITUTION	California State Dept. of Education, Sacramento. Div. of Special Education.
PUB DATE	86
NOTE	174p.; For the seventh edition, see ED 260 530.
AVAILABLE FROM	California State Department of Education, Publication Sales, P.O. Box 271, Sacramento, CA 95802-0271 (free).
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	Agency Cooperation; *Disabilities; Elementary Secondary Education; Intervention; Services; *Special Education; *State Legislation
IDENTIFIERS	*California

ABSTRACT

The manual covers California statutes chaptered during 1985 and modifying provisions of Part 30 of the Education Code. It also includes provisions of the code regarding interagency responsibilities for providing services to handicapped children, early intervention services, and other provisions related to programs for individuals with exceptional needs. The text of the amended Part 30 of the Education Code is presented as it incorporates seven legislative bills chaptered into law in 1985. Topics covered include longer day/year for county operated special education programs, suspension/expulsion of handicapped pupils, early diagnosis of learning disabilities, and out-of-home care for individuals with serious emotional disturbances. (CL)

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California Special Education Programs

A Compilation of Laws*

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California Special Education Programs

A Composite of Laws*

Education Code - Part 30
and Other Related Laws

Prepared by the

Special Education Division
California State Department of Education

Eighth Edition

*Revised to Cover Laws Enacted During 1985

EC182945

Publishing Information

This document was prepared by Paul D. Hinkle, Special Education Consultant, Special Education Division, California State Department of Education, and was published by the Department, 721 Capitol Mall, Sacramento, California (mailing address: P.O. Box 944272, Sacramento, CA 94244-2720). Any questions regarding the document should be addressed to the Special Education Division (telephone 916-445-4036).

Distributed under the provisions of the
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1986

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FOREWORD

EDUCATION CODE - PART 30

SPECIAL EDUCATION PROGRAMS

This eighth edition of California Special Education Programs - A Composite of Laws covers statutes chaptered during 1985 modifying provisions of Part 30 of the Education Code. It also contains provisions of the Government Code pertaining to interagency responsibilities for providing services to handicapped children; early intervention services; and other Education Code provisions relating to programs for individuals with exceptional needs.

Part 30 of the Education Code was rewritten in 1980 primarily by Senate Bill 1870 (Rodda) (Chapter 797), which became law on July 28, 1980. This bill repealed all former special education categorical programs and Master Plan for Special Education program Education Code sections that were in effect on January 1, 1980; and restructured and added code sections implementing the Master Plan for Special Education statewide.

Since the passage of SB 1870, 39 legislative measures have modified California's special education statutes.

During 1985 seven legislative bills were chaptered into law amending, adding, or repealing the special education sections under Part 30 of the Education Code.

The seven measures are:

Senate Bill 1264 (Seymour)	- Chapter 1603 - Statutes of 1985 Effective Date: October 2, 1985
Assembly Bill 72 (Felando)	- Chapter 55 - Statutes of 1985 Effective Date: June 4, 1985
Assembly Bill 456 (Papan)	- Chapter 795 - Statutes of 1985 Effective Date: January 1, 1986
Assembly Bill 982 (O'Connell)	- Chapter 1546 - Statutes of 1985 Effective Date: January 1, 1986
Assembly Bill 1537 (Farr)	- Chapter 999 - Statutes of 1985 Effective Date: September 25, 1985
Assembly Bill 1807 (Harris)	- Chapter 106 - Statutes of 1985 Effective Date: January 1, 1986
Assembly Bill 2557 (Papan)	- Chapter 115 - Statutes of 1985 Effective Date: June 28, 1985

Senate Bill 1264 (Seymour), a measure almost identical to Assembly Bill 2557 (Papan), was chaptered after AB 2557 and superseded the provisions of that measure, except for Education Code Section 56429. Both bills were companion measures to the Budget Bill of 1985 and contained modifications to statutes necessary to implement the $32.5 million in special education program augmentations approved by the Governor for 1985-86. Both SB 1264 and AB 2557 do the following: place all special education pupil transportation, including other than home-to-school, under the single, consolidated transportation formula; extend special incentive funding for longer day/year, previously applicable to K-12 districts, to county offices of education; specify that mandated infant programs are to be funded in the same manner as other special education programs, and establish separate standards for infant programs that more appropriately reflect class loading in these programs; allow for state funding for two instructional aides in five percent of special classes for severely handicapped pupils; establish a low-incidence funding method to support specialized books, materials, and equipment, as required under the individualized education program for each pupil; and require uniform program cost accounting procedures of all local educational agencies.

Assembly Bill 72 (Felando) makes a technical amendment to the pilot handicapped Awareness Program, which became law on September 29, 1984 (Chapter 1677, Statutes of 1984), by allowing elementary schools in unified school districts, as well as all school districts maintaining the grades K-8, to participate in the program.

Assembly Bill 456 (Papan) authorizes local educational agencies to conduct innovative demonstration programs in special education, using existing resources, upon approval of the Superintendent of Public Instruction; requires the administrative agency of special education local plan areas (SELPAs), as a condition of receiving funds for regionalized services, to ensure that coordinated functions are performed in accordance with the governance structure of the SELPA; requires special education programs to be provided to pupils with disabilities in county community schools once they have been adjudicated by the juvenile court; requires the Commission on Special Education to conduct a sunset review of special education in 1986; and requires the Commission to provide assistance and advice to the Governor, Legislature, and Superintendent of Public Instruction, in new or continuing areas of research, program development, and evaluation in special education. The Commission is already required by law to provide this assistance and advice to the State Board of Education. AB 456 also makes a number of technical amendments and repeals outdated code sections.

Assembly Bill 982 (O'Connell) revises the formula under which the State Department of Developmental Services is required to provide funds to county superintendents of schools for special education programs for individuals with exceptional needs residing in state hospitals and attending community schools. Among other things, the measure also revises the formula for computing the transportation allowance for a school district or county superintendent of schools.

Assembly Bill 1537 (Farr) establishes an emergency fund to be administered by the Superintendent of Public Instruction to provide relief, during the course of the school year, to local educational agencies when their school programs

are impacted by the location or expansion of licensed children's institutions (LCIs), foster family homes, residential medical facilities, and other similar facilities. The measure also allocates $1.56 million in federal funds in 1985-86 to establish the emergency fund; and allocates $300,000 in State General Fund local assistance monies for the identification and assessment costs for students in LCIs, foster family homes, residential medical facilities, and other similar facilities who are placed in state-certified nonpublic, nonsectarian schools.

Assembly Bill 1807 (Harris) makes a technical amendment to Education Code Section 56722 by eliminating an outdated reference.

Assembly Bill 2557 (Papan), in addition to the provisions covered in the summary of SB 1264, requires a SELPA-level plan for early intervention services, approved by the Superintendent of Public Instruction, as part of the eligibility requirement for the receipt of funds for early intervention services.

Senate Bill 150 (Alquist) (Chapter 111, Statutes of 1985), the Budget Act of 1985, although not amending Part 30 of the Education Code, provided $778,698,000 of state local assistance for special education, including a $10 million augmentation for special education growth in 1985-86; $5.5 million for increased numbers of instructional aides for classes for severely handicapped pupils; $5 million for the expansion of the infant program; $5 million for the purchase of specialized books, materials, and equipment for pupils with low incidence disabilities; $3.5 million for work experience education for students with disabilities; and $3.5 million for incentives for the longer day and year for county offices of education. The Budget Act also contained $94,879,000 in federal funds for special education programs and provided special education programs with a 6.19 percent cost-of-living adjustment, amounting to $84.1 million, for 1985-86.

Assembly Bill 1304 (Vasconcellos) (Chapter 107, Statutes of 1985) funded the 1984-85 special education program deficit ($10 million) and the home-to-school transportation deficit ($24.4 million). This measure also postponed the implementation of Assembly Bill 3632 (W. Brown) (Chapter 1747, Statutes of 1984) until July 1, 1986.

In 1985 three other urgency measures were signed into law, impacting programs for individuals with exceptional needs. They are: Assembly Bill 114 (Papan) (Chapter 26, Statutes of 1985), which enacted the California Early Intervention Services Act providing for three interagency demonstration projects for early intervention services for infants and their families; Assembly Bill 882 (W. Brown) (Chapter 1274, Statutes of 1985), which amends and clarifies the provisions of AB 3632 (1984) regarding interagency responsibilities for providing services to handicapped children; and Senate Bill 1260 (Seymour) (Chapter 907, Statutes of 1985), which treats all pupils equally in suspension cases and clarifies the procedures for the expulsion of individuals with exceptional needs. Although the provisions of these three measures are not contained in Part 30 of the Education Code, they are included at the end of this composite of laws as part of other selected provisions.

The provisions of several other special education related laws enacted in recent years are also included at the end of this document.

Other provisions of state law having impact on special education, not included in Part 30, can be found in the Education Code under the parts covering general provisions, county educational agencies, finance, local educational agencies, school operations, school facilities, school finance, employees, attendance for computing apportionments, pupils, general instructional programs, suspension and expulsion, and state schools for the handicapped.

In addition to the laws approved in 1985, the following statutes have modified special education code sections in Part 30 of the Education Code since 1980:

1980

Senate Bill 1870	(Rodda)	- Chapter 797 - Statutes of 1980 Effective Date: July 28, 1980
Assembly Bill 3075	(Papan)	- Chapter 1353 - Statutes of 1980 Effective Date: September 30, 1980
Assembly Bill 507	(Chacon)	- Chapter 1339 - Statutes of 1980 Effective Date: January 1, 1981
Assembly Bill 1202	(Hart)	- Chapter 1191 - Statutes of 1980 Effective Date: September 29, 1980
Assembly Bill 2286	(Kapiloff)	- Chapter 1325 - Statutes of 1980 Effective Date: January 1, 1981
Assembly Bill 2394	(Egeland)	- Chapter 1276 - Statutes of 1980 Effective Date: January 1, 1981
Assembly Bill 3043	(Vasconcellos)	- Chapter 1373 - Statutes of 1980 Effective Date: January 1, 1981
Assembly Bill 3269	(Hart)	- Chapter 1329 - Statutes of 1980 Effective Date: January 1, 1981
Senate Bill 1616	(Watson)	- Chapter 1218 - Statutes of 1980 Effective Date: January 1, 1981

1981

Senate Bill 769	(Sieroty)	- Chapter 1094 - Statutes of 1981 Effective Date: January 1, 1982, With Computation or Recomputations of Allowances Deemed Operative for Entire 1981-82 Fiscal Year
Senate Bill 1192	(Rains)	- Chapter 714 - Statutes of 1981 Effective Date: January 1, 1982

Assembly Bill 61	(Greene)	- Chapter 1093 - Statutes of 1981 Effective Date: January 1, 1982
Assembly Bill 92	(Lehman)	- Chapter 1176 - Statutes of 1981 Effective Date: January 1, 1982
Assembly Bill 159	(Kapiloff)	- Chapter 149 - Statutes of 1981 Effective Date: January 1, 1982
Assembly Bill 817	(Papan)	- Chapter 1044 - Statutes of 1981 Effective Dates: January 1, 1982, and July 1, 1982
Assembly Bill 933	(Kapiloff)	- Chapter 893 - Statutes of 1981 Effective Date: January 1, 1982
Assembly Bill 1055	(Farr)	- Chapter 972 - Statutes of 1981 Effective Date: January 1, 1982

1982

Senate Bill 386	(Stiern)	- Chapter 866 - Statutes of 1982 Effective Date: September 9, 1982
Senate Bill 1345	(Sieroty)	- Chapter 1201 - Statutes of 1982 Effective Date: September 21, 1982
Senate Bill 2058	(Rains)	- Chapter 466 - Statutes of 1982 Effective Date: January 1, 1983
Assembly Bill 1124	(Hughes)	- Chapter 11 - Statutes of 1982 Effective Date: January 27, 1982
Assembly Bill 1253	(Vasconcellos)	- Chapter 115 - Statutes of 1982 Effective Date: March 12, 1982
Assembly Bill 2652	(Moore)	- Chapter 1334 - Statutes of 1982 Effective Date: January 1, 1983
Assembly Bill 3049	(Kapiloff)	- Chapter 644 - Statutes of 1982 Effective Date: January 1, 1983

1983

Senate Bill 679	(Seymour)	- Chapter 922 - Statutes of 1983 Effective Date: September 19, 1983
Senate Bill 813	(Hart)	- Chapter 498 - Statutes of 1983 Effective Date: July 28, 1983
Assembly Bill 1063	(Hughes)	- Chapter 501 - Statutes of 1983 Effective Date: July 28, 1983

Assembly Bill 1892	(Felando)	- Chapter 1099 - Statutes of 1983 Effective Date: January 1, 1984

1984

Senate Bill 585	(Seymour)	- Chapter 1668 - Statutes of 1984 Effective Date: January 1, 1985
Senate Bill 1379	(Alquist)	- Chapter 268 - Statutes of 1984 Effective Date: June 29, 1984
Senate Bill 1634	(Keene)	- Chapter 144 - Statutes of 1984 Effective Date: January 1, 1985
Assembly Bill 2841	(Felando)	- Chapter 1677 - Statutes of 1984 Effective Date: September 30, 1984
Assembly Bill 3007	(Mountjoy)	- Chapter 1717 - Statutes of 1984 Effective Date: September 30, 1984

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PART 30. SPECIAL EDUCATION PROGRAMS

CHAPTER I. GENERAL PROVISIONS - GENERAL PROVISIONS

Article 1. Intent - LEGISLATIVE INTENT

56000. The Legislature finds and declares that all individuals with exceptional needs have a right to participate in free appropriate public education and that special educational instruction and services for these persons are needed in order to ensure them of the right to an appropriate educational opportunity to meet their unique needs. - Free Appropriate Public Education

It is the intent of the Legislature to unify and improve special education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to assure that all individuals with exceptional needs are provided their rights to appropriate programs and services which are designed to meet their unique needs under Public Law 94-142. - Unify and Improve Programs Under the Master Plan - Assure Rights to Appropriate Programs and Services - PL 94-142 Rights

It is the further intent of the Legislature that nothing in this part shall be construed to abrogate any right provided individuals with exceptional needs and their parents or guardians under Public Law 94-142.

It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs which is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils. - Provide Educational Opportunity

It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with provisions of this part by all school districts and county offices during a two-year transitional period commencing with fiscal year 1980-81, with full implementation to be completed by June 30, 1982. - Full Implementation by June 30, 1982

56000.5. The Legislature finds and declares that:

(a) Pupils with low-incidence disabilities, as a group, make up less than 1 percent of the total statewide enrollment for kindergarten through grade 12. - Low-Incidence Disabilities

(b) Pupils with low-incidence disabilities require highly specialized services, equipment and materials.

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until such time that he or she has met proficiency standards prescribed pursuant to Sections 51215 and 51216. - Course of Study

(b) Early educational opportunities are available to all children between the ages of three and four years and nine months who require intensive special education and services. - Ages 3 - 4.9

(c) Early educational opportunities may be made available to children younger than three years of age who require intensive special education and services and their parents. - Ages Birth - 3

(d) Any child younger than four years and nine months, potentially eligible for special education shall be afforded the protections provided by this part and by federal law commencing with his or her referral for special education instruction and services. - Protections

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program. - Written IEP

(f) Education programs are provided under an approved local plan for special education which sets forth the elements of the programs in accordance with the provisions of this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communications. - Local Plan Development

(g) Individuals with exceptional needs are offered special assistance programs which promote maximum interaction with the general school population in a manner which is appropriate to the needs of both. - Maximum Interaction

(h) Pupils be transferred out of special education programs when special education services are no longer needed. - Transferred Out

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs. - Avoid Unnecessary Use of Labels

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. Such procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited English proficiency as defined in subdivision (m) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

- Assessment Procedures and Materials

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic, nonsectarian schools, regional occupational centers and programs and postsecondary and adult programs for individuals with exceptional needs.

- Coordination of Educational Programs

(l) Psychological and health services for individuals with exceptional needs shall be available to each school site.

- Psychological and Health Services

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education services region, or county office shall be made to insure the highest quality educational offerings.

- Continuous Program Evaluation

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and that positive efforts to employ qualified handicapped individuals are made.

- Qualified Staff

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

- Prepared Personnel

Article 2. Definitions

- DEFINITIONS

56020. As used in this part, the definitions prescribed by this article apply unless the context otherwise requires.

56021. "Board" means the State Board of Education.

- Board

56022. "County office" means office of the county superintendent of schools.

- County Office

56023. "Day" means a calendar day.

- Day

56024. "Department" means the Department of Education.

- Department

56025. "District" means school district. - District

56026. "Individuals with exceptional needs" means those persons who satisfy all the following: - Individuals with Exceptional Needs

(a) Identified by an individualized education program team as a handicapped child as that term was defined in subsection (1) of Section 1401 of Title 20 of the United States Code as it read July 1, 1980. - Identified by IEP Team - Federal Definition

(b) Their impairment, as described by subdivision (a), requires instruction, services, or both which cannot be provided with modification of the regular school program. - Impairment Requires Special Instruction/ Services

(c) Come within one of the following age categories: - Age Categories

(1) Younger than three years of age and identified by the district, the special education services region, or the county office as requiring intensive special education and services, as defined by the State Board of Education. - Younger Than 3

(2) Between the ages of three and four years and nine months, inclusive, and identified by the district, the special education services region, or the county office as requiring intensive special education and services, as defined by the State Board of Education. - Between 3 and 4.9

(3) Between the ages of four years and nine months and 18 years, inclusive. - Between 4.9 and 18

(4) Between the ages of 19 and 21, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards prescribed pursuant to Sections 51215 and 51216. Any such person who becomes 22 years of age while participating in a program under this part may continue his or her participation in the program for the remainder of the then current school year. - Between 19 - 21 - 22nd Birthday

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4. - Eligibility Criteria

(e) Unless handicapped within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to unfamiliarity with the English language; temporary physical disabilities; social maladjustment; or environmental, cultural, or - Not Individuals with Exceptional Needs

economic factors are not individuals with exceptional needs.

56026.5 "Low incidence disability" means a severe handicapping condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12. For purposes of this definition, severe handicapping conditions are hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof.

- Low Incidence Disability

56027. "Local plan" means a plan which meets the requirements of Chapter 3 (commencing with Section 56200) and which is submitted by a school district, special education services region, or county office.

- Local Plan

56028. "Parent", includes any person having legal custody of a child. "Parent" in addition, includes any adult pupil for whom no guardian or conservator has been appointed and the person having custody of a minor if neither the parent or legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate.

- Parent

56029. "Referral for assessment" means any written request for assessment to identify an individual with exceptional needs made by a parent, teacher, or other service provider.

- Referral for Assessment

56030. "Responsible local agency" means the school district or county office designated in the local plan as the entity whose duties shall include, but are not limited to, receiving and distributing regionalized services funds, providing administrative support, and coordinating the implementation of the plan.

- Responsible Local Agency

56030.5 "Severely handicapped" means individuals with exceptional needs who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe mental retardation, and those individuals who would have been eligible for enrollment in a development center for handicapped pupils under Chapter 6 (commencing with Section 56800) of this part, as it read on January 1, 1980.

- Severely Handicapped

56031. "Special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, whose educational needs cannot

- Special Education

- Specially Designed Instruction

be met with modification of the regular instruction program, and related services, at no cost to the parent, which may be needed to assist such individuals to benefit from specially designed instruction.

Special education is an integral part of the total public education system and provides education in a manner that promotes maximum interaction between handicapped and nonhandicapped pupils in a manner which is appropriate to the needs of both.

- Integral Part of Public Education
- Maximum Interaction

Special education provides a full continuum of program options to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment.

- Full Continuum of Program Options

Individuals with exceptional needs shall be grouped for instructional purposes according to their instructional needs.

- Grouped for Instructional Purposes and Needs

56032. "Special education services region" means the school districts organized within a geographic area in accordance with subdivision (b) of Section 56170 to coordinate the administration and delivery of special education services. Such organization may provide for the appointment of a responsible local agency to perform functions assigned by the special education services region.

- Special Education Services Region (Multidistricts)

56033. "Superintendent" means the Superintendent of Public Instruction.

- Superintendent

Article 3. General Provisions

- GENERAL PROVISIONS

56040. Every individual with exceptional needs, who is eligible to receive educational instruction, related services, or both under this part shall receive such educational instruction, services, or both, at no cost to his or her parents or, as appropriate, to him or her.

- Free Appropriate Educational Instruction/Services

Article 3.5. Surrogate Parents

- SURROGATE PARENTS

56050. (a) For the purposes of this article, "surrogate parent" shall be defined as it is defined in the federal regulations adopted pursuant to Public Law 94-142.

- Definition

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education to the individual.

- Representation

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious. - Liability Protection

Article 4. Substitute Teachers - SUBSTITUTE TEACHERS

56060. A noncredentialed person shall not substitute for any special education certificated position. - Noncredentialed Substitutes Prohibited

56061. A person holding a valid credential authorizing substitute teaching may serve as a substitute for the appropriately credentialed special education teacher as follows: - Substitute Teacher Qualifications

(a) Except as provided in subdivisions (b) and (c), the employer shall not employ an inappropriately credentialed substitute teacher for a period of more than 20 cumulative school days for each special education teacher absent during each school year. - Number of Days

(b) Upon application by the district or county office, the superintendent may approve an extension of 20 school days in addition to those authorized by subdivision (a). - Extension of 20 School Days

(c) Only in extraordinary circumstances may an additional number of days be granted beyond the 40 school days provided for by subdivisions (a) and (b). Such additional days shall be granted in writing by the superintendent. The superintendent shall report to the board on all requests granted for an additional number of days pursuant to this subdivision. - Beyond 40 School Days

56062. The employer shall use the following priorities in placing substitute teachers in special education classrooms: - Substitute Teacher Priorities

(a) A substitute teacher with the appropriate special education credential or credentials.

(b) A substitute teacher with any other special education credential or credentials.

(c) A substitute teacher with a regular teaching credential.

56063. The employer shall be responsible for seeking, and maintaining lists of, appropriately credentialed substitute teachers. The employer shall contact institutions of higher education with approved special education programs for possible recommendations of appropriately credentialed special education personnel. - Employer Maintains Lists

CHAPTER 2. ADMINISTRATION

- ADMINISTRATION

Article 1. State Board of Education

- STATE BOARD OF EDUCATION

56100. The State Board of Education shall do all the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

- Adopt Rules/Regulations*

(b) Adopt criteria and procedures for the review and approval by the board of local plans. Local plans may be approved for up to three years.

- Approve Local Plans

(c) Adopt size and scope standards for use by districts, special education service regions, and county offices, pursuant to subdivision (a) of Section 56170.

- Adopt Size and Scope Standards

(d) Provide review, upon petition, to any district, special education services region, or county office that appeals a decision made by the department which affects its providing services under this part except a decision made pursuant to Chapter 5 (commencing with Section 56500).

- Provide Review of Department Decisions

(e) Review and approve a program evaluation plan for special education programs provided by this part in accordance with Chapter 6 (commencing with Section 56600).

- Review/Approve Program Evaluation Plan

(f) Recommend to the Commission on Teacher Credentialing the adoption of standards for the certification of professional personnel for special education programs conducted pursuant to this part.

- Recommend Adoption of Professional Standards

(g) Adopt regulations to provide specific procedural criteria and guidelines for the identification of pupils as individuals with exceptional needs.

- Adopt Specific Procedural Criteria for Identification

(h) Adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. The guidelines shall be developed to aid teachers and parents in assessing an individual pupil's education program and the appropriateness of the special education services.

- Adopt Reasonable Pupil Progress/Achievement Guidelines

(i) In accordance with the requirements of federal law, adopt regulations for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

- Adopt Title 5 Regulations

(j) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

- Adopt Rules/Regulations on Due Process Rights

(k) Perform the duties prescribed by Chapter 4.5 (commencing with Section 56450).

- Encourage Development of Career/Vocational Education Services

*(Section Amended in 1985)

56101. (a) Any district, special education services region, county office, or public education agency as defined in Section 56500 may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to any such provision if such waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under Public Law 94-142, or to the compliance of a district, special education services region, or county office with Public Law 94-142, as amended, Section 504 of Public Law 93-112, as amended, and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any such request when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education services region, or county office with federal mandates for a free, appropriate education for handicapped children.

- State Board Waivers

Article 2. Superintendent of Public Instruction

- SUPERINTENDENT OF PUBLIC INSTRUCTION

56120. The superintendent shall administer the provisions of this part.

- Administer Special Education Law

56121. The superintendent shall grant approval of the organization of the local plans within each county.

- Grant Approval of Local Plan Organization

56122. The superintendent shall establish guidelines for the development of local plans, including a standard format for local plans, and provide assistance in the development of local plans. The purposes of such guidelines and assistance shall be to help districts and county offices benefit from the experience of other local agencies that implement programs under this part, including, but not limited to, reducing paperwork, increasing parental involvement, and providing effective staff development activities. To the extent possible, all forms, reports, and evaluations shall be designed to satisfy simultaneously state and federal requirements.

- Establish Local Plan Development Guidelines

56123. The superintendent shall review and recommend to the board for approval, local plans developed and submitted in accordance with this part.

- Review/Recommend to State Board on Local Plans

56124. The superintendent shall promote innovation and improvement in the field of special education at the public and nonpublic, nonsectarian school, district, county, and state levels.

- Promote Innovation/ Improvement in Special Education

56125. The superintendent shall monitor the implementation of local plans by periodically conducting onsite program and fiscal reviews.

- Monitor Local Plan Implementation

56126. The superintendent shall encourage the maximum practicable involvement of parents of children enrolled in special education programs.

- Encourage Maximum Parent Involvement

56127. The superintendent shall make recommendations in the areas of staff development, curriculum, testing and multicultural assessment, and the development of materials for special education programs.

- Make Recommendations for Special Education Programs

56128. The superintendent shall prepare for board approval, as necessary, any state plan required by federal law in order that this state may qualify for any federal funds available for the education of individuals with exceptional needs.

- Prepare PL 94-142 State Plan

56129. The superintendent shall maintain the state special schools in accordance with Part 32 (commencing with Section 59000) so that the services of such schools are coordinated with the services of the district, special education services region, or the county office.

- Maintain State Special Schools and Coordinate Services

56130. The superintendent shall develop in accordance with Sections 33401 and 55602, an annual program evaluation plan and report of special education programs authorized under this part for submission to the board.

- Develop Annual Program Evaluation Plan

56131. The superintendent shall apportion funds in accordance with Chapter 7 commencing with Section 56700) and approved local plans.

- Apportion Funds

56132. The superintendent shall assist districts and county offices in the improvement and evaluation of their programs.

- Assist in Improvement/ Evaluation of Local Programs

56133. The superintendent shall provide for the mediation conference prescribed by Sections 56502 and 56503 and the state hearing prescribed by Section 56505.

- Provide for Mediation Conference

56134. The superintendent shall perform the duties prescribed by Chapter 4.5 (commencing with Section 56450).

- Promote Career/Vocational Education

56135. (a) The superintendent shall be responsible for assuring provision of, and supervising, education and related services to individuals with exceptional needs as specifically required pursuant to Public Law 94-142, the Education for All Handicapped Children Act of 1975.

- Assure Provision of/ Supervise Education/ Related Services Required by PL 94-142

(b) Nothing in this part shall be construed to authorize the superintendent to prescribe health care services.

- Excludes Prescription of Health Care Services

56136. The superintendent shall develop guidelines for each low incidence disability area and provide technical assistance to parents, teachers, and administrators regarding the implementation of the guidelines. The guidelines shall clarify the identification, assessment, plannning of, and the provision of, specialized services to pupils with low incidence disabilities. The superintendent shall consider the guidelines when monitoring programs serving pupils with low incidence disabilities pursuant to Section 56825. The adopted guidelines shall be promulgated for the purpose of establishing recommended guidelines and shall not operate to impose minimum state requirements.

- Develop Low-Incidence Disability Guidelines

56137. The superintendent shall develop, update every other year, and disseminate directories of public and private agencies providing services to pupils with low-incidence disabilities. The directories shall be made available as reference directories to parents, teachers, and administrators. The directories shall include, but need not be limited to, the following information:

- Develop and Disseminate Directories

(a) A description of each agency providing services and program options within each disability area.

(b) The specialized services and program options provided, including infant and preschool programs.

(c) The number of credentialed and certificated staff providing specialized services.

(d) The names, addresses, and telephone numbers of agency administrators or other individuals responsible for the programs.

Article 3. County Offices

- COUNTY OFFICES

56140. County office shall do all of the following:

(a) Initiate and submit to the superintendent a countywide plan for special education which demonstrates the coordination of all local plans submitted pursuant to Section 56200 and which ensures that all individuals with exceptional needs will have access to appropriate special education programs and related services. However, a county office shall not be required to submit a countywide plan when all the districts

- Countywide Plan

within the county elect to submit a single local plan.

(b) Within 45 days, approve or disapprove any proposed local plan submitted by a district or group of districts within the county or counties. Such approval shall be based on the capacity of the district or districts to ensure that special education programs and services are provided to all individuals with exceptional needs.

- Approve/Disapprove Proposed Local Plans

(1) If approved, the county office shall submit the plan with comments and recommendations to the superintendent.

- Submit Approved Local Plan to State Superintendent

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county office's disapproval. The superintendent shall make a decision on such an appeal within 30 days of receipt of the appeal.

- Return Disapproved Plan to District

(3) A local plan may not be implemented without approval of the plan by the county office or a decision by the superintendent to overrule the disapproval of the county office.

- Local Plan Implementation Approval

(c) Participate in the state onsite review of the district's implementation of an approved local plan.

- State Onsite Review

(d) Join with districts in the county which elect to submit a plan or plans pursuant to subdivision (c) of Section 56170. Any such plan may include more than one county, and districts located in more than one county. Nothing in this subdivision shall be construed to limit the authority of a county office to enter into other agreements with these districts and other districts to provide services relating to the education of individuals with exceptional needs.

- Join Districts to Submit Plan(s)

Article 4. Juvenile Court Schools

- JUVENILE COURT SCHOOLS

56150. Special education programs authorized by this part shall be provided, pursuant to Section 48645.2, for individuals with exceptional needs who have been adjudicated by the juvenile court for placement in a juvenile hall or juvenile home, day center, ranch, or camp, or for individuals with exceptional needs placed in a county community school pursuant to Section 1981.

- Programs Provided Once* Individual Adjudicated

*(Section Amended in 1985)

Article 5. Licensed Children's Institutions and Foster Family Homes

- LICENSED CHILDREN'S INSTITUTIONS AND FOSTER FAMILY HOMES

56155. The provisions of this article shall only apply to individuals with exceptional needs placed in a licensed children's institution or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency.

- Application of Article

56155.5. (a) As used in this article, "licensed children's institution" means a residential facility which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. "Licensed children's institution" in addition, includes a group home as defined by subdivision (a) of Section 80001 of Title 22 of the California Administrative Code.

- LCI Definition*

(b) As used in this article, "foster family home" means a family residence which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, individuals with exceptional needs. "Foster family home," in addition, includes a small family home as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

- Foster Family Home Definition

56156. (a) Each court, regional center for the developmentally disabled, or public agency which engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the district, special education services region, or county office in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

- Referring/Placing Agencies

(b) At the time of placement in a licensed children's institution or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify the individual responsible for representing the interests of the child for educational and related services.

- Identify Responsible Individual

(c) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the special

- LCI Operators

*(Section Amended in 1985)

education administrator of the district, special education services region, or county office in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

(d) The county office shall maintain a current list of licensed children's institutions located within the county and shall notify each district, special education services region, or county office within the county of the names of licensed children's institutions located in the geographical area covered by each local plan. The county office shall notify the director of each licensed children's institution of the appropriate person to contact regarding individuals with exceptional needs.

- County Office Maintains List

56156.5. (a) Each district, special education services region, or county office shall be responsible for providing appropriate education to individuals with exceptional needs residing in licensed children's institutions and foster family homes located in the geographical area covered by the local plan.

- Educational Responsibility

(b) In multidistrict and district and county office local plan areas, local written agreements shall be developed, pursuant to subdivision (f) of Section 56220, to identify the public education entities that will provide the special education services.

- Local Written Agreements

(c) If there is no local agreement, special education services for individuals with exceptional needs residing in licensed children's institutions shall be the responsibility of the county office in the county in which the institution is located, if the county office is part of the special education local plan area, and special education services for individuals with exceptional needs residing in foster family homes shall be the responsibility of the district in which the foster family home is located. If a county office is not a part of the special education local plan area, special education services for individuals with exceptional needs residing in licensed children's institutions, pursuant to this subdivision, shall be the responsibility of the responsible local agency or other administrative entity of the special education local plan area. This program responsibility shall continue until the time local written agreements are developed pursuant to subdivision (f) of Section 56220.

- No Local Agreement

- County Office Responsibility

- District Responsibility

- RLA Responsibility

56156.6. If the district in which the licensed children's institution or foster family home is

- Residence of Parent

located is also the district of residence of the parent of the individual with exceptional needs, and if the parent retains legal responsibility for the child's education, Section 56775 shall not apply.

56157. (a) In providing appropriate programs to individuals with exceptional needs residing in licensed children's institutions or foster family homes, the district, special education services region, or county office shall first consider services in programs operated by public education agencies for individuals with exceptional needs. If such programs are not appropriate, special education and related services shall be provided by contract with a nonpublic, nonsectarian school.

- First Consider Public* Options

(b) If special education and related services are provided by contract with a nonpublic, nonsectarian school, or with a licensed children's institution under this article, the terms of such contract shall be developed in accordance with the provisions of Section 56366.

- Contracts

56159. If a district, special education services region, or county office does not make the placement decision of an individual with exceptional needs in a licensed children's institution or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

- Residential Costs/Non-education Services

56160. (a) The superintendent shall apportion, pursuant to Chapter 7 (commencing with Section 56700), funds directly to each district or county office operating programs under this article.

- Apportionment of Funds

(b) Reimbursements for nonpublic, nonsectarian school placements shall be made pursuant to Section 56775 to each district or county office contracting for services under this article.

- Nonpublic School Reimbursements

(c) For purposes of the revenue calculations required pursuant to subdivision (a) of Section 56712, the district in which the licensed children's institution or foster family home is located shall be considered the district of residence.

- Revenue Calculations

56161. Individuals with exceptional needs served under this article shall not be subject to subdivision (a) of Section 56760 and the deficit provisions prescribed by Article 10 (commencing with Section 56790) of Chapter 7. In addition, if available funds are insufficient to fully fund entitlements pursuant to Article 10 (commencing

- Not Subject to Service* Proportions and Deficit Provisions

*(Sections Amended in 1985)

with Section 41850) of Chapter 5 of Part 24, no deficit shall be applied to the portion of the entitlements for services to individuals prescribed in Section 56155. However, those pupils and appropriate instructional personnel units required to provide educational services to those pupils, shall be included in the computations prescribed in Section 56728.5.

- Included in April Pupil Count

56162. Individuals with exceptional needs placed in a licensed children's institution or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency, prior to the effective date of this article, shall be considered residents of the geographical area of the local plan in which the licensed children's institution or foster family home is located, for special education and related services pursuant to the provisions of this article.

- Grandfather Clause

56163. A licensed children's institution which provides nonsectarian educational programs for individuals with exceptional needs shall be certified by the department as prescribed by subdivision (c) of Section 56366.

- Certification

56164. This article shall not apply to programs operating in state hospitals and juvenile court schools.

56165. This article shall not apply to individuals with exceptional needs placed in a licensed children's institution pursuant to Section 56365.

- Exclusions

56166. The board shall adopt rules and regulations to implement the provisions of this article.

- Rules/Regulations

56166.5. This article shall become operative July 1, 1982.

- Operative Date

Article 5.5 Public Hospitals, Proprietary Hospitals and Other Residential Medical Facilities

- PUBLIC HOSPITALS, PROPRIETARY HOSPITALS

56167. Individuals with exceptional needs who are placed in a public hospital, state licensed children's hospital, psychiatric hospital, proprietary hospital, or a medical facility for other than educational purposes are the educational responsibility of the district, special education services region, or county office in which the hospital or facility is located, as determined in local written agreements pursuant to subdivision (e) of Section 56220.

- Educational Responsibility

- Written Agreements

56168. If the hospital or medical facility also operates a nonpublic, nonsectarian school and the individual with exceptional needs is served by that nonpublic school, the responsibility for assuring appropriate education of the individual shall be that of the district in which the parent resides, pursuant to Sections 56365 and 56366.

- Nonpublic School Responsibility

56169. (a) The superintendent shall apportion funds pursuant to Chapter 7 (commencing with Section 56700) to the district or county operating programs under this article. Classes operated pursuant to this article shall not be subject to the deficit provisions prescribed by Article 10 (commencing with Section 56790) of Chapter 7.

- Apportionment of Funds
- Not Subject to Deficit Provisions

(b) Except where the hospital or medical facility also operates a nonsectarian, nonpublic school, the revenue limit of the district in which the hospital or medical facility is located shall be used for computational purposes.

- Revenue Limit Computation

56169.5 (a) This article shall not apply to individuals with exceptional needs placed in a hospital or medical facility pursuant to Section 56365.

- Exclusions

(b) This article shall not apply to programs operating in state hospitals.

Article 6. School Districts

- SCHOOL DISTRICTS

56170. The governing board of a school district shall elect to do one of the following:

- Local Plan Options

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent, in accordance with Section 56200, a local plan for the education of all individuals with exceptional needs residing in the district.

- Sufficient Size and Scope

(b) In conjunction with one or more districts, submit to the superintendent, in accordance with Section 56200, a local plan for the education of individuals with exceptional needs residing in those districts. The plan shall, through joint powers agreements or other contractual agreements, include all the following:

- Multidistricts

(1) Provision of a governance structure and any necessary administrative support to implement the plan.

- Governance Structure

(2) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the special education services region.

- Education Responsibilities

(3) Designation of a responsible local agency or alternative administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of the services required by the plan.

- RLA/Administrative Entity

(c) Join with the county office, to submit to the superintendent a plan in accordance with Section 56200 to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the plan. The county office shall coordinate the implementation of such plan, unless otherwise specified in the plan. Such plan shall, through contractual agreements, include all of the following:

- Join with County Office

(1) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the geographical area served by the plan.

- Education Responsibilities

(2) Designation of the county office, of a responsible local agency, or of any other administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

- RLA/Administrative Entity

(d) The service area covered by the local plan developed under subdivision (a), (b), or (c) shall be known as the special education local plan area.

- SELPA Definition

(e) Nothing in this section shall be construed to limit the authority of any county office and any school district or group of school districts to enter into contractual agreements for services relating to the education of individuals with exceptional needs.

- Contractual Agreements

56170.5 (a) On a pilot project basis, the Superintendent of Public Instruction may select one high school district, one elementary school district, and one unified school district which has an average daily attendance of 9,000 or more within Orange County to be exempt from the size and scope requirement of subdivision (a) of Section 56170. The districts selected to participate in the pilot project may elect to submit a local plan for the education of all individuals with exceptional needs residing in

- Size and Scope Pilot Project

that school district in accordance with subdivision (a) of Section 56170.

(b) If a district participating in the pilot project pursuant to subdivision (a) has special education facilities constructed under the provisions of Section 16196, that facility shall serve severely handicapped pupils from other districts within the region which that facility had previously served. These pupils shall be served with the funding provided by state formula without additional charge to the district where the pupil resides. The district of the pupil's residence shall transfer to the district with the facility instructional personnel service units for pupils placed pursuant to this provision in accordance with the agreements for the transfers that existed in the 1982-83 fiscal year, unless a superseding agreement is adopted.

- Special Education Facilities

(c) Any district selected to participate in the pilot project which elects to implement a local plan pursuant to subdivision (a) shall submit the plan to the Superintendent of Public Instruction by January 15 of the year of withdrawal from the special education services region.

- Submit Plan to State Superintendent

(d) This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

- June 30, 1987 Repeal Date

56171. In developing a local plan under Section 56170, each district shall:

- Developing Local Plan

(a) Involve special and regular teachers selected by their peers and parents selected by their peers in an active role.

- Involve Teachers/Parents

(b) Cooperate with the county office and other school districts in the geographic areas in planning its option under Section 56170 and, commencing with fiscal year 1982-83 and each fiscal year thereafter, notify the county office of its intent to elect an alternative option from those specified in Section 56170, at least one year prior to the proposed effective date of the implementation of such alternative plan.

- Cooperate in Planning Option

- Electing Alternative Option

(c) Cooperate with the county office to assure that the plan is compatible with other local plans in the county and any county plan of a contiguous county.

- Compatible Plan

(d) Join with the county office in countywide planning pursuant to subdivision (a) of Section 56140.

- Countywide Planning

(e) Submit to the county office for review any plan developed under subdivision (a), or (b) of Section 56170.

- Submit Plan for Review

56172. (a) Each county office and district governing board shall have authority over the programs it directly maintains, consistent with the local plan submitted pursuant to Section 56170. In counties with more than one special education services region for which the county office provides services, relevant provisions of contracts between the county office and its employees governing wages, hours, and working conditions shall supersede like provisions contained in a plan submitted under Section 56170.

- County Office/District Governing Board Authority Over Programs

- Contracts with Employees

(b) Any county office or district governing board may provide for the education of individual pupils in special education programs maintained by other districts or counties, and may include within their special education programs pupils who reside in other districts or counties. Section 46600 shall apply to interdistrict attendance agreements for programs conducted pursuant to this part.

- Pupils Who Reside in Other Districts/ Counties

Article 7. Community Advisory Committee

- COMMUNITY ADVISORY COMMITTEE

56190. Each plan submitted under Section 56170 shall establish a community advisory committee. Such committee shall serve only in an advisory capacity.

- Advisory Capacity

56191. The members of the community advisory committee shall be appointed by, and responsible to, the governing board of each participating district or county office, or any combination thereof participating in the local plan. Appointment shall be in accordance with a locally determined selection procedure that is described in the local plan. Where appropriate, this procedure shall provide for selection of representatives of groups specified in Section 56192 by their peers. Such procedure shall provide that terms of appointment are for at least two years and are annually staggered to ensure that no more than one half of the membership serves the first year of the term in any one year.

- CAC Appointments

56192. The community advisory committee shall be composed of parents of individuals with exceptional needs enrolled in public or private schools, parents of other pupils enrolled in school, handicapped pupils and adults, regular education teachers, special education teachers and other school personnel, representatives of other public and private agencies, and persons concerned with the needs of individuals with exceptional needs.

- CAC Composition

56193. At least the majority of such committee shall be composed of parents of pupils enrolled in schools participating in the local plan, and at least a majority of such parents shall be parents of individuals with exceptional needs. - Parent Majority

56194. The community advisory committee shall have such authority and fulfill such responsibilities as are defined for it in the local plan. Such responsibilities shall include, but need not be limited to, all the following: - CAC Responsibilities

(a) Advising the policy and administrative entity of the district, special education services region, or county office, regarding the development, amendment, and review of the local plan. Such entity shall review and consider comments from the community advisory committee.

(b) Recommending annual priorities to be addressed by the plan.

(c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

(d) Encouraging community involvement in the development and review of the local plan.

(e) Supporting activities on behalf of individuals with exceptional needs.

(f) Assisting in parent awareness of the importance of regular school attendance.

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN - ELEMENTS OF THE LOCAL PLAN

Article 1. State Requirements - STATE REQUIREMENTS

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with Public Law 94-142, Section 504 of Public Law 93-112, and the provisions of this part. - Compliance Assurances

(b) Description of services to be provided by each district and county office. Such description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs. - Description of Services

(c) (1) Description of the governance and administration of the plan. - Description of Governance/ Administration

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56170, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the - Policymaking Responsibilities

responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into such agreements pursuant to subdivision (b) or (c) of Section 56170. - Joint Powers/Contractual Agreements

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating such services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education services region, or county office, as appropriate. Notice of this hearing shall be posted in each school in the services region at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and such revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, such revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c). - Annual Budget Plan

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct such a review prior to submission of the plan to the superintendent. - CAC Review of Plan

(g) Description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300). - Description of Program Requirements

(h) A description of the process being utilized to meet the requirements of Section 56303. This subdivision applies only to plans which are submitted in the 1983-84 fiscal year. - Description of Process Utilized in Considering Regular Education Program

Article 2. Local Requirements - LOCAL REQUIREMENTS

56220. In addition to the provisions required to be included in the local plan pursuant to Section 56200, each special education services region that submits a local plan pursuant to subdivision (b) of Section 56170 and each county office that submits a local plan pursuant to subdivision (c) of Section 56170 shall develop written agreements to be entered into by entities - Written Agreements*

*(Section Amended in 1985)

participating in the plan. The agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300). - Coordinated IRP System

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500). - Procedural Safeguards

(c) Regionalized services to local programs, including, but not limited to, all the following: - Regionalized Services

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies which are funded to serve individuals with exceptional needs. - Coordination with Local Public Agencies

(e) A description of the process for coordinating and providing services to individuals with exceptional needs placed in public hospitals, proprietary hospitals, and other residential medical facilities pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2. - Public/Proprietary Hospitals

(f) A description of the process for coordinating and providing services to individuals with exceptional needs placed in licensed children's institutions and foster family homes pursuant to Article 5 (commencing with Section 56155) of Chapter 2. - Licensed Children's Institutions/Foster Family Homes

(g) A description of the process for coordinating and providing services to individuals with exceptional needs placed in juvenile court schools or county community schools pursuant to Section 56150. - Juvenile Court Schools/ County Community Schools

56221. (a) Each entity providing special education under this part shall adopt policies for the programs and services it operates, consistent with agreements adopted pursuant to subdivision (b) or (c) of Section 56170, or - Adopt Policies

Section 56220. The policies need not be submitted to the superintendent.

(b) Such policies shall include, but not be limited to, all of the following:

(1) Nonpublic, nonsectarian services, including those provided pursuant to Sections 56365 and 56366. - Nonpublic Services

(2) Review, at a regular education or special education teacher's request, of the assignment of an individual with exceptional needs to his or her class and a mandatory meeting of the individualized education program team if the review indicates a change in the pupil's placement, instruction, related services, or any combination thereof. The procedures shall indicate which personnel are responsible for such reviews and a timetable for completion of the review. - Review of Class Assignment at Teacher's Request

(3) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500). - Procedural Safeguards

(4) Resource specialists pursuant to Section 56362. - Resource Specialists

(5) Transportation, where appropriate, which describes how special education transportation is coordinated with regular home-to-school transportation. The policy shall set forth criteria for meeting the transportation needs of special education pupils. - Transportation

(c) The policies may include, but are not limited to, provisions for involvement of district and county governing board members in any due process hearing procedure activities conducted pursuant to, and consistent with, state and federal law. - Governing Board Members/ Due Process Hearing Procedures

56222. The plan for special education shall be developed and updated cooperatively by a committee of representatives of special and regular teachers and administrators selected by the groups they represent and with input from the community advisory committee to ensure adequate and effective participation and communication. - Local Plan Developed/ Updated by Committee

Article 3. Staff Development - STAFF DEVELOPMENT

56240. Staff development programs shall be provided for regular and special education teachers, administrators, certificated and classified employees, volunteers, community advisory committee members and, as appropriate, members of the district and county governing boards. Such programs shall be coordinated with other staff development programs in the district, special education services region, or county - Participants

office, including school level staff development programs authorized by state and federal law.

56241. Staff development programs shall include, but not be limited to, all the following:

(a) Provision of opportunities for all school personnel, paraprofessionals, and volunteers to participate in ongoing development activities pursuant to a systematic identification of pupil and personnel needs. - Opportunities

(b) Be designed and implemented by classroom teachers and other participating school personnel, including the school principal. Teachers shall comprise the majority of any group designated to design local staff development programs for instructional personnel to be established pursuant to this part. Positive efforts shall be made to ensure the individuals with exceptional needs and parents of such individuals are involved in the design and implementation of staff development programs. - Design and Implementation

(c) Allowance for diversity in development activities, including, but not limited to, small groups, self-directed learning, and systematic observation during visits to other classrooms or schools. - Diversity in Development

(d) Scheduling of time which is set aside for such purpose throughout the school year, including, but not limited to, time when participating school personnel are released from their regular duties. - Scheduling

(e) Evaluation and modification on a continuing basis by participating school personnel with the aid of outside personnel, as necessary. - Evaluation/Modification

(f) Inclusion of the school principal and other administrative personnel as active participants in one or more staff development activities implemented pursuant to this chapter. - Administrators

(g) Provision of a budget for reasonable and necessary expenses, relating to staff development programs. - Expense Budget

56242. A district, special education services region, or county office, shall receive its full average daily attendance apportionment during the regular school year to conduct staff development programs pursuant to this article. Such time shall not exceed two days each year for each participating staff member. However, no district, special education services region, or county office shall receive average daily attendance reimbursement under this section if it is reimbursed pursuant to Chapter 1147 of the Statutes of 1972, Chapter 3.1 (commencing with - ADA Reimbursement

Section 44670) of Part 25, or Chapter 6 (commencing with Section 52000) of Part 28.

56243. Each district, special education services region, and county office shall ensure that all regular classroom teachers who provide services to individuals with exceptional needs receive the equivalent of at least one day of training each year relating to the needs of such individuals.

- Regular Classroom Teachers

CHAPTER 4. IDENTIFICATION AND REFERRAL, ASSESSMENT, INSTRUCTIONAL PLANNING, IMPLEMENTATION, AND REVIEW

- IDENTIFICATION/REFERRAL

Article 1. Identification and Referral

56300. Each district, special education services region or county office shall actively and systematically seek out all individuals with exceptional needs, ages 0 through 21 years, including children not enrolled in public school programs, who reside in the district or are under the jurisdiction of a special education services region or a county office.

- Systematically Seek Out

56301. Each district, special education services region, or county office shall establish written policies and procedures for a continuous child-find system which addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. Such policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs.

- Continuous Child-Find

56302. Each district, special education services, region, or county office shall provide for the identification and assessment of an individual's exceptional needs, and the planning of an instructional program to best meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with school site procedures for referral of pupils with needs that cannot be met with modification of the regular instructional program.

- Identification Procedures

56303. A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized.

- Consider Regular Education Program Resources

Article 2. Assessment

- ASSESSMENT

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all the following:

- Individual Assessment Conducted by Qualified Persons

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

- Testing/Assessment Materials

(b) Tests and other assessment materials meet all the following requirements:

(1) Are provided and administered in the pupil's primary language or other mode of communication, unless the assessment plan indicates reasons why such provision and administration are not clearly feasible.

- Provided in Primary Language

(2) Have been validated for the specific purpose for which they are used.

- Validated for Specific Purpose

(3) Are administered by trained personnel in conformance with the instructions provided by the producer of such tests and other assessment materials, except that individually administered tests of intellectual or emotional functioning shall be administered by a psychometrist or credentialed school psychologist where available. It is not the intent of the Legislature to require that new personnel be hired for this purpose.

- Administered by Trained Personnel

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

- Specific Areas

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

- Accurate Test Results

(e) No single procedure is used as the sole criterion for determining an appropriate educational program for an individual with exceptional needs. - No Single Procedure Used

(f) The pupil is assessed in all areas related to the suspected disability including, where appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general ability, academic performance, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history is obtained, when appropriate. - Assessed in All Areas

For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136. - Low Vision Assessment

(g) The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. - Assessment Conducted by Persons Knowledgeable of Disability

Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136. - Unique Educational Needs

56321. (a) Whenever an assessment for the development or revision of the individualized education program is to be conducted, the parent of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment. - Proposed Assessment Plan

A copy of the notice of parent rights shall be attached to the assessment plan. - Notice of Parent Rights

(b) The proposed assessment plan given to parents shall meet all the following requirements: - Requirements

(1) Be in language easily understood by the general public.

(2) Be provided in the primary language of the parent or other mode of communication used by the parent, unless to do so is clearly not feasible.

(3) Explain the types of assessments to be conducted.

(4) State that no individualized education program will result from the assessment without the consent of the parent.

(c) No assessment shall be conducted unless the written consent of the parent is obtained prior to the assessment except pursuant to subdivision (e) of Section 56506. The parent shall have at least 15 days from the receipt of the proposed - Written Consent of Parent

assessment plan to arrive at a decision. Assessment may begin immediately upon receipt of such consent.

56322. The assessment shall be conducted by persons competent to perform the assessment, as determined by the school district, county office, or special education services region. - Assessment Conducted by Competent Persons

56323. Admission of a pupil to special education instruction shall be made only in accordance with this article, Article 2.5 (commmencing with Section 56333) and standards established by the board and upon a recommendation by the individualized education program team. - Admission to Special Education

56324. (a) Any psychological assessment of pupils shall be made in accordance with Section 56320 and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed. - Psychological Assessment

(b) Any health assessment of pupils shall be made in accordance with Section 56320 and shall be conducted by a credentialed school nurse or physician who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed. - Health Assessment

56325. (a) Whenever a pupil transfers into a school district from a school district not operating programs under the same local plan in which he or she was last enrolled in a special education program, the administrator of a local program under this part may place the pupil in a comparable program for a period not to exceed 30 days. This interim placement may be made without complying with subdivision (a) of Section 56321. - Pupil Transfers* - Interim Placement Not to Exceed 30 Days

(b) Before the expiration of the 30-day period, the interim placement shall be reviewed by the individualized education program team and a final recommendation shall be made by the team in accordance with the requirements of this chapter. The team may utilize information, records, and reports from the school district or county program from which the pupil transferred. - IEP Team Review/Final Recommendation

56326. A pupil may be referred, as appropriate, for further assessment and recommendations to the California Schools for the Deaf and Blind or the Diagnostic Schools for Neurologically Handicapped Children. - Assessment Referral to State Schools

56327. The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following: - Written Assessment Report

*(Section Amended in 1985)

(a) Whether the pupil may need special education and related services.

(b) The basis for making the determination.

(c) The relevant behavior noted during the observation of the pupil in an appropriate setting.

(d) The relationship of that behavior to the pupil's academic and social functioning.

(e) The educationally relevant health and development, and medical findings, if any.

(f) For pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.

(g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.

(h) The need for specialized services, materials, and equipment for pupils with low incidence disabilities, consistent with guidelines established pursuant to Section 56136.

- School Site/Regional Level Assessment Options

56328. Notwithstanding the provisions of this chapter, a district, special education services region, or county office may utilize a school site level and a regional level service, as provided for under Section 56336.2 as it read immediately prior to the operative date of this section, to provide the services required by this chapter.

- Written Notice Provided to Parent

56329. The parent of the pupil shall be provided with written notice that he or she may obtain, upon request, a copy of the findings of the assessment or assessments conducted pursuant to Section 56321. This notice may be provided as part of the assessment plan given to parents pursuant to Section 56321. The notice shall include all the following:

- IEP Team Conference

(a) An individualized education program team conference, including the parent and his or her representatives, shall be scheduled, pursuant to Section 56341, to discuss the assessment, the educational recommendations, and the reasons for these recommendations.

- Independent Educational Assessment

(b) A parent has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, as defined by regulations of the board, if the parent disagrees with an assessment obtained by the public education agency.

- Due Process Hearing on Assessment

However, the public education agency may initiate a due process hearing pursuant to

Chapter 5 (commencing with Section 56500) to show that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent still has the right for an independent educational assessment, but not at public expense.

If the parent obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the public education agency with respect to the provision of free, appropriate public education to the child, and may be presented as evidence at a due process hearing pursuant to Chapter 5 (commencing with Section 56500) regarding such child.

- Results of Independent Assessment

Article 2.5. Eligibility Criteria for Special Education and Related Services on the Basis of Language and Speech Disorder or Specific Learning Disabilities

- ELIGIBILITY CRITERIA

56333. A pupil shall be assessed as having a language or speech disorder which makes him or her eligible for special education and related services when he or she demonstrates difficulty understanding or using spoken language to such an extent that it adversely affects his or her educational performance and cannot be corrected without special education and related services. In order to be eligible for special education and related services, difficulty in understanding or using spoken language shall be assessed by a language, speech, and hearing specialist who determines that such difficulty results from any of the following disorders:

- Language/Speech Disorder Eligibility Criteria

(a) Articulation disorders, such that the pupil's production of speech significantly interferes with communication and attracts adverse attention.

(b) Abnormal voice, characterized by persistent, defective voice quality, pitch, or loudness. An appropriate medical examination shall be conducted, where appropriate.

(c) Fluency difficulties which result in an abnormal flow of verbal expression to such a degree that these difficulties adversely affect communication between the pupil and listener.

(d) Inappropriate or inadequate acquisition, comprehension, or expression of spoken language such that the pupil's language performance level is found to be significantly below the language performance level of his or her peers.

(e) Hearing loss which results in a language or speech disorder and significantly affects educational performance.

56337. A pupil shall be assessed as having a specific learning disability which makes him or her eligible for special education and related services when it is determined that all of the following exist:

- Specific Learning Disability Eligibility Criteria

(a) A severe discrepancy exists between the intellectual ability and achievements in one or more of the following academic areas:

(1) Oral expression.
(2) Listening comprehension.
(3) Written expression.
(4) Basic reading skills.
(5) Reading comprehension.
(6) Mathematics calculation.
(7) Mathematics reasoning.

(b) The discrepancy is due to a disorder in one or more of the basic psychological processes and is not the result of environmental, cultural, or economic disadvantages.

(c) The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program.

56338. As used in Section 56337, "specific learning disability" includes, but is not limited to, disability within the function of vision which results in visual perceptual or visual motor dysfunction.

- Visual Perceptual/Visual Motor Dysfunction

Article 3. Instructional Planning and Individualized Education Program

- INSTRUCTIONAL PLANNING/IEP

56340. Each district, special education services region, or county office shall initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs.

- Initiate and Conduct Meetings

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

- IEP Team

(b) The individualized education program team shall include all of the following:

- IEP Team Members

(1) A representative other than the pupil's teacher designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil and who is qualified to provide, or supervise the provision of, special education.

(2) The pupil's present teacher. If the pupil does not presently have a teacher, this representative shall be the teacher with the most recent and complete knowledge of the pupil who has also observed the pupil's educational performance in an appropriate setting. If no such teacher is available, this representative shall be a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

(3) One or both of the pupil's parents, a representative selected by the parent, or both, pursuant to Public Law 94-142.

(c) When appropriate, the team shall also include:

(1) The individual with exceptional needs.

(2) Other individuals, at the discretion of the parent, district, special education services region, or county office who possess expertise or knowledge necessary for the development of the individualized education program.

(d) If the team is developing, reviewing, or revising the individualized education program of an individual with exceptional needs who has been assessed for the purpose of that individualized education program, the district, special education services region, or county office, shall ensure that a person is present at the meeting who has conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil and is familiar with the results of the assessment. Such person shall be qualified to interpret the results if the results or recommendations, based on such assessment, are significant to the development of the pupil's individualized education program and subsequent placement.

- Assessment Person Present at Meeting

(e) For pupils with suspected learning disabilities, at least one member of the individualized education program team, other than the pupil's regular teacher, shall be a person who has observed the pupil's educational performance in an appropriate setting. If the child is younger than four years and nine months or is not enrolled in a school, a team member shall observe the child in an environment appropriate for a child of that age.

- Observation of Educational Performance

(f) The parent shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in

- Right of Parent to Present Information

meetings relating to eligibility for special education and related services, recommendations, and program planning.

(g) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs. However, if the public education agency uses an attorney during any part of the individualized education program meeting, that use shall be governed by the provisions of Section 56507.

- Nonadversarial IEP Meetings/ Attorney Use

56342. The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of Section 56221, and make program placement recommendations.

- IEP Team Responsibilities

Prior to recommending a new placement in a nonpublic, nonsectarian school, the individualized education program team shall submit the proposed recommendation to the local governing board of the district, special education services region, or county office for its review and recommendation regarding the cost of such placement.

- Local Governing Board Review Nonpublic School Recommendations

The local governing board shall complete its review and make its recommendations, if any, at the next regular meeting of the board. A parent or representative shall have the right to appear before the board and submit written and oral evidence regarding the need for nonpublic school placement for his or her child. Any recommendations of the board shall be considered at an individualized education program team meeting, to be held within five days of the board's review.

- Right of Parent to Appear Before Board

Notwithstanding Section 56344, the time limit for the development of an individualized education program shall be waived for a period not to exceed 15 additional days to permit the local governing board to meet its review and recommendation requirements.

- IEP Development Time Waiver

56343. An individualized education program team shall meet whenever any of the following occur:

- IEP Team Meetings Required

(a) A pupil has received a formal assessment.

(b) The pupil demonstrates a lack of anticipated progress.

(c) The parent or teacher requests a meeting to develop, review, or revise the individualized education program; provided that such a request by a parent shall not be granted more than twice in any one semester.

(d) At least annually, to review the pupil's progress, the individualized education program, and the appropriateness of placement, and to make any necessary revisions. The individualized education program team conducting the annual review shall consist of those persons specified in subdivision (b) of Section 56341. Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

56343.5. A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 days, not counting days in July and August, from the date of receipt of the parent's written request. If a parent makes an oral request, the school district shall notify the parent of the need for a written request and the procedure for filing a written request.

- Parent Request for IEP* Review

56344. An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 days, not counting days in July and August, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, such an individualized education program shall be developed within 30 days after the commencement of the subsequent regular school year for each pupil for whom a referral has been made 20 days or less prior to the end of the regular school year.

- IEP Development Time Line

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance.

(2) The annual goals, including short-term instructional objectives.

(3) The specific special educational instruction and related services required by the pupil.

(4) The extent to which the pupil will be able to participate in regular educational programs.

- IEP Contents

*(Section Amended in 1985)

(5) The projected date for initiation and the anticipated duration of such programs and services.

(6) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

(b) When appropriate, the individualized education program shall also include, but not be limited to, all of the following:

- Appropriate Additional IEP Content

(1) Prevocational career education for pupils in kindergarten and grades 1 to 6, inclusive, or pupils of comparable chronological age.

- Prevocational Career Education

(2) Vocational education, career education or work experience education, or any combination thereof, in preparation for remunerative employment, including independent living skill training for pupils in grades 7 to 12, inclusive, or comparable chronological age, who require differential proficiency standards pursuant to Section 51215.

- Vocational Education/ Career Development

(3) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation in accordance with Section 51215.

- Prescribed Course of Study

(4) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

- Linguistical Goals

(5) Extended school year services when needed, as determined by the individualized education program team.

- Extended School Year Services

(6) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday.

- Transition into Regular Program

(7) For pupils with low incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

- Specialized Services, Materials, and Equipment

(c) It is the intent of the Legislature in requiring individualized education programs that the district, special education services region, or county office is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

- Responsibility for Providing Services

(d) Pursuant to subdivision (d) of Section 51215, a pupil's individualized education program shall also include the determination of the individualized education program team as to whether differential proficiency standards shall be developed for the pupil. If differential proficiency standards are to be developed, the individualized education program shall include these standards.

- Differential Proficiency Standards

56345.5. Except as prescribed in subdivision (b) of Section 56324, nothing in this part shall be construed to authorize districts, special education services regions, or county offices to prescribe health care services.

- Health Care Services Exclusion

56346. No pupil shall be required to participate in all or part of any special education program unless the parent is first informed, in writing, of the facts which make participation in the program necessary or desirable, and of the contents of the individualized education plan, and after such notice, consents, in writing, to all or part of the individualized education program. If the parent does not consent to all the components of the individualized education program, then those components of the program to which the parent has consented may be implemented so as not to delay providing instruction and services to the pupil. Components to which the parent has not consented may become the basis for a due process hearing pursuant to Chapter 5 (commencing with Section 56500). The parent may withdraw consent at any time after consultation with a member of the individualized education program team and after he or she has submitted written notification to an administrator.

- Parent Written Consent for IEP Contents

- If Parent Does Not Consent

- Parent May Withdraw Consent

56347. Each district, special education service region, or county office shall, prior to the placement of the individual with exceptional needs, ensure provision of a copy of his or her individualized education program to the regular teacher or teachers, the special education teacher or teachers, and other persons who provide special education, related services, or both to the individual with exceptional needs. Copies of the individualized education program shall be provided in accordance with state and federal pupil record confidentiality laws.

- Provide IEP Copy to Teachers

Article 4. Implementation

- IMPLEMENTATION

56360. Each district, special education services region, or county office shall ensure

- Ensure Continuum of Program Options

that a continuum of program options is available to meet the needs of individuals with exceptional needs for special education and related services.

56361. The continuum of program options shall include all of the following: — List of Program Options

(a) A resource specialist program pursuant to Section 56362.

(b) Designated instruction and services pursuant to Section 56363.

(c) Special classes and centers pursuant to Section 56364.

(d) Nonpublic, nonsectarian school services pursuant to Section 56365.

(e) State special schools pursuant to Section 56367.

56361.5. (a) In addition to the continuum of program options listed in Section 56361, a district, special education services region, or county office may contract with a hospital to provide designated instruction and services, as defined in subdivision (b) of Section 56363, required by the individual with exceptional needs, as specified in the individualized education program. However, a district, special education services region, or county office of education may not contract with a sectarian hospital for instructional services. A district, special education services region, or county office shall contract with a hospital for designated instruction and services required by the individual with exceptional needs only when no appropriate public education program is available. — Contracting with Hospitals for DIS; Sectarian Limitations; No Public Program Available

For the purposes of this section "hospital" means a health care facility licensed by the State Department of Health Services. — Definition of Hospital

(b) Contracts with hospitals pursuant to subdivision (a) shall be subject to the procedures prescribed in Sections 56365, 56366, and 56366.5. — Contract Procedures

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following: — Resource Specialist* Duties

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

*(Section Amended in 1985)

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission on Teacher Credentialing and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

- Resource Specialist Qualifications

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

- Caseloads

(d) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

- Shall Not Teach Regular Classes

(e) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

- Majority of Schoolday Prior Approval

(f) At least eighty percent of the resource specialists within a local plan shall be provided with an instructional aide.

- 80 Percent Mandate

56362.1. For the purposes of Section 56362, "caseload" shall include, but not be limited to, all pupils for whom the resource specialist performs any of the services described in subdivision (a) of Section 56362.

- Caseload Definition

56362.5. By July 1982, the Commission on Teacher Credentialing shall adopt rules and regulations for a resource specialist certificate of competence. The certificate shall provide all the following:

- Certificate of Competence Provisions

(a) Definition of the competencies required of a resource specialist.

(b) Provision for a system of direct application to the commission for a certificate of competence for each teacher who holds a valid special education credential, other than an emergency credential, and who satisfies any one of the following criteria:

- Direct Application

(1) Provided instruction and services as specified in subdivision (a) of Section 80070.1 of Title 5 of the California Administrative Code as it read immediately prior to July 28, 1980, for two years prior to September 1, 1981.

(2) Provided instruction and services as specified in subdivision (b) of Section 80070.2 of Title 5 of the California Administrative Code as it read immediately prior to July 28, 1980, for two years prior to June 30, 1983.

(c) Provision for the issuance, for up to three years, of a preliminary nonrenewable certificate of competence for the resource specialist, and adoption of the standards for the issuance and continuing validity of such a certificate.

- Preliminary Nonrenewable Certificate

(d) Establishment of a system for verification of competencies through both of the following:

- System of Verification

(1) Commission on Teacher Credentialing approved institution of higher education resource specialist certificate program.

(2) Commission on Teacher Credentialing approved competency assessment panels for resource specialist certification.

(e) Cooperation with the department in implementing these provisions.

- Cooperation with Department of Education

Notwithstanding any other provision of law, any person who held a preliminary resource specialist certificate of competence on January 28, 1982, and who met the requirements for a clear resource specialist certificate of competence as specified in paragraph (1) of subdivision (b) may be issued a clear resource specialist certificate of competence upon submission of a completed application, but without any additional fee.

- Issuance of Certificate Without Additional Fee

56362.7. (a) The Legislature recognizes the need for specially trained professionals to assess and serve pupils of limited-English proficiency. This is particularly true of pupils with exceptional needs or pupils with suspected handicaps.

- Bilingual-Crosscultural Certificate of Assessment Competence

(b) The commission shall develop a bilingual-crosscultural certificate of assessment competence for those professionals who may participate in assessments for placements in special education programs. The certificate

shall be issued to holders of appropriate credentials, certificates, or authorizations who demonstrate, by written and oral examination, all of the following:

(1) That the person is competent in both the oral and written skills of a language other than English. - Written and Oral Exam

(2) That the person has both the knowledge and understanding of the cultural and historical heritage of the limited-English-proficient individuals to be served.

(3) That the person has the ability to perform the assessment functions the candidate is certified or authorized to perform in English and in a language other than English.

(4) That the person has knowledge of the use of instruments and other assessment techniques appropriate to evaluate limited-English-proficient individuals with exceptional needs and ability to develop appropriate data, instructional strategies, individual educational plans, and evaluations.

(c) Certificates of bilingual-crosscultural competence for special education professionals who implement individual education plans requiring bilingual services shall be granted by the commission pursuant to Section 44253.7. - Certificates for Implementers

(d) It is not the intent of the Legislature in enacting this section that possession of any certificate established by this section be a state-mandated requirement for employment or continued employment. It is the intent that this is a matter for local educational agencies to determine. - Not State-Mandated for Employment

56363. (a) Designated instruction and services as specified in the individualized education program shall be available when the instruction and services are necessary for the pupil to benefit educationally from his or her instructional program. - Designated Instruction and Services (DIS)

The instruction and services shall be provided by the regular class teacher, the special class teacher, or the resource specialist if the teacher or specialist is competent to provide such instruction and services and if the provision of such instruction and services by the teacher or specialist is feasible. If not, the appropriate designated instruction and services specialist shall provide such instruction and services. Designated instruction and services shall meet standards adopted by the board. - Providers

(b) These services may include, but are not limited to, the following: - DIS Services

(1) Language and speech development and remediation.

(2) Audiological services.

(3) Orientation and mobility instruction.

(4) Instruction in the home or hospital.

(5) Adapted physical education.

(6) Physical and occupational therapy.

(7) Vision services.

(8) Specialized driver training instruction.

(9) Counseling and guidance.

(10) Psychological services other than assessment and development of the individualized education program.

(11) Parent counseling and training.

(12) Health and nursing services.

(13) Social worker services.

(14) Specially designed vocational education and career development.

(15) Recreation services.

(16) Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services.

- Caseload for Language, Speech and Hearing Specialists

56363.3. The average caseload for language, speech, and hearing specialists in districts, county offices, or special education service regions shall not exceed 55 cases, unless the local comprehensive plan specifies a higher average caseload and the reasons for the greater average caseload.

- Reimbursement from Insurance Companies

56363.5. School districts, county offices of education, and special education service regions may seek, either directly or through the pupil's parents, reimbursement from insurance companies to cover the costs of related services to the extent permitted by federal law or regulation.

- Special Classes and Centers

56364. Special classes and centers which enroll pupils with similar and more intensive educational needs shall be available. The classes and centers shall enroll the pupils when the nature or severity of the disability precludes their participation in the regular school program for a majority of a schoolday. Special classes and centers and other removal of individuals with exceptional needs from the regular education environment shall occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals and recess periods, each public agency shall ensure that each

individual with exceptional needs participates in those services and activities with nonhandicapped pupils to the maximum extent appropriate to the needs of the individual with exceptional needs. Special classes and centers shall meet standards adopted by the board.

- Participate with Nonhandicapped Pupils

56364.1. Notwithstanding the provisions of Section 56364, pupils with low incidence disabilities may receive all or a portion of their instruction in the regular classroom and may also be enrolled in special classes taught by appropriately credentialed teachers who serve these pupils at one or more school sites. The instruction shall be provided in a manner which is consistent with the guidelines adopted pursuant to Section 56136 and in accordance with the individualized education program.

- Special Classes for Pupils with Low Incidence Disabilities

56364.5. The Commission for Teacher Preparation and Licensing shall establish standards for the issuance of credentials or permits for persons employed in special centers pursuant to Section 56364.

- Credentials/Permits for Special Centers' Personnel

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic, nonsectarian agencies shall be available. Such services shall be provided under contract with the district, special education services region, or county office to provide the appropriate special educational facilities or services required by the individual with exceptional needs when no appropriate public education program is available.

- Nonpublic, Nonsectarian Schools/Agencies
- No Public Program Available

(b) Pupils enrolled in nonpublic, nonsectarian schools under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education services region, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

- Deemed Enrolled in Public Schools
- Funding Eligibility

(c) The district, special education services region, or county office shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

- Full Amount of Tuition

(d) Before contracting with a nonpublic, nonsectarian school outside of the State of California, every effort shall be made by the district, special education services region, or

- Before Contracting Outside of California

county office to utilize public schools, or to locate an appropriate nonpublic, nonsectarian school program within the state.

56365.5. Before state funds can be used for new public and non-public school special education placements of individuals with exceptional needs, the superintendent shall review the appropriateness of the placement if the cost of the placement exceeds twenty thousand dollars ($20,000). - State Superintendent Review of Placements Exceeding $20,000

The district, special education services region, or county office shall submit documentation to the superintendent of all efforts made to locate an appropriate alternative placement within the state and outside of the state. - Documentation

The superintendent or his or her designee shall review the educational placement decision to determine if every effort was made by the district, special education services region, or county office to utilize an appropriate public or nonpublic, nonsectarian school costing less than twenty thousand dollars ($20,000). - Review Placement Decision

The superintendent shall notify the district, special education services region, or county office of his or her findings within 10 days. - Notification of Findings

The twenty thousand dollars ($20,000) threshhold shall be cumulatively increased by the annual percentage increase specified by Section 56723, or by the in-lieu percentage specified in the Budget Act. - Annual Percentage Increase

Within five days following receipt of the superintendent's findings indicating availability of alternative placements, an individualized education program team meeting shall be convened to consider those findings. - IEP Team Considers Findings

If the superintendent fails to make findings within 10 days, the original placement decision of the individualized education program team shall be final. - Failure to Make Findings

The superintendent shall annually report the total costs incurred by districts, special education services regions, county offices, and the state resulting from placements made pursuant to this section. - Report Annual Total Costs

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school shall be maintained and continued as an alternative special education service available to districts, special education services regions, and county offices, and parents. - Role of Nonpublic School

(a) The contract for nonpublic, nonsectarian school services shall be developed in accordance with the following provisions: - Contracting Provisions

(1) The contract shall specify the administrative and financial agreements between the nonpublic, nonsectarian school and the district, special education services region, or county office to provide the services included in the pupil's individualized education program. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

- Administrative/Financial Agreements

(2) The contract shall be negotiated for the length of time for which nonpublic, nonsectarian school services are specified in the pupil's individualized education program.

- Length of Time

Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract the parent; nonpublic, nonsectarian school; or district, special education services region, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the contract which do not alter the educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school and the district, special education services region, or county office.

(3) The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

- May Terminate for Cause

(4) The nonpublic, nonsectarian school shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school and the district, special education services region, or county office agree otherwise in the contract.

- Provide Specified Services

(b) (1) If the pupil is enrolled in the nonpublic, nonsectarian school with the approval of the district, special education services region, or county office prior to agreement to a contract, the district, special education services region, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the

- Issuance of Warrant

pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the contract has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

- Appeal

- Mediate Formulation of Contract

(c) No contract for special education and related services provided by nonpublic, nonsectarian schools or licensed children's institutions shall be authorized under this part unless such school or institution has been certified as meeting those standards relating to the required special education services and facilities for individuals with exceptional needs. The certification shall result in the school's or institution's receiving approval to educate pupils under this part for a period no longer than five years from the date of such approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the board. The school or institution shall be charged a reasonable sum for this certification. In addition to those standards adopted by the board, the school or institution shall meet all applicable standards relating to fire, health, sanitation, and building safety.

- Certification of Standards

56366.1. A district, special education services region, county office, nonpublic, nonsectarian school, nonpublic, nonsectarian agency, or licensed children's institution may petition the superintendent to waive one or more of the requirements under Sections 56365 and 56366. The petition shall state the reasons for the request, and shall include sufficient documentation to demonstrate that the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and that the waiver does not abrogate any right provided individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder

- Waiver of Contract/ Certification Provisions

the compliance of a district, special education services region, or county office with Public Law 94-142, as amended, Section 504 of Public Law 93-112, as amended, and federal regulations relating thereto.

56366.5. (a) Upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under a contract entered into pursuant to Sections 56365 and 56366, the district, special education services region, or county office shall either (1) send a warrant for the amount requested within 45 days, or (2) notify the nonpublic, nonsectarian school within 10 working days of any reason why the requested payment shall not be paid. - Payment for Services

(b) If the district, special education services region, or county office fails to comply with subdivision (a), the nonpublic, nonsectarian school may require the district, special education services region, or county office to pay an additional amount of 1-1/2 percent of the unpaid balance per month until full payment is made. The district, special education services region, or county office may not claim reimbursement from the state for such additional amount pursuant to any provision of law, including any provision contained in Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code. - Penalty for Late Payment

56367. (a) Placements in state special schools pursuant to Sections 59020, 59120, and 59220 shall be made only as a result of recommendations from the individualized education program team, upon a finding that no appropriate placement is available in the local plan area. - State Special Schools Placements

(b) Notwithstanding the provisions of subdivision (a), referrals for further assessment and recommendations to the California Schools for the Deaf and Blind or the Diagnostic Schools for Neurologically Handicapped Children, pursuant to Section 56326, shall not constitute placements in state special schools. - Referrals for Further Assessment

56368. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized indepth knowledge in preschool handicapped, career vocational development, or one or more areas of major handicapping conditions. - Program Specialist Qualifications

(b) A program specialist may do all the following:

(1) Observe, consult with, and assist resource specialists, designated instruction and services instructors, and special class teachers. - Program Specialist Activities

(2) Plan programs, coordinate curricular resources, and evaluate effectiveness of programs for individuals with exceptional needs.

(3) Participate in each school's staff development, program development, and innovation of special methods and approaches.

(4) Provide coordination, consultation and program development primarily in one specialized area or areas of his or her expertise.

(5) Be responsible for assuring that pupils have full educational opportunity regardless of the district of residence.

(c) For purposes of Section 41403, a program specialist shall be considered a pupil services employee, as defined in subdivision (c) of Section 41401. - Considered as Pupil Services Employee

56369. A district, special education services region, or county office, may contract with another public agency to provide special education or related services to an individual with exceptional needs. - Contracting with Another Public Agency

Article 5. Review - REVIEW

56380. (a) The district, special education services region, or county office shall maintain procedures for conducting, on at least an annual basis, reviews of all individualized education programs. The procedures shall provide for the review of the pupil's progress and the appropriateness of placement, and the making of any necessary revisions. - At Least Annual Basis

(b) The district, special education services region, or county office shall notify, in writing, parents of their right to request a review by the individualized education program team. The notice may be part of the individualized education program. - Parent Notification

(c) Each individualized education program review shall be conducted in accordance with the notice and scheduling requirements for the initial assessment. - Conducting IEP Review

(d) When the individualized education program team finds that a pupil placed in a resource specialist program for more than one year has failed to show expected progress, the pupil shall receive a health and psychological evaluation as early as possible in the second year. The - Second Year Health/ Psychological Evaluation

findings of the evaluation shall be interpreted for and considered by the individualized education program team in making their recommendations for the pupil.

56381. A reassessment of the pupil, based upon procedures specified in Article 2 (commencing with Section 56320) shall be conducted at least every three years or more frequently, if conditions warrant, or if the pupil's parent or teacher requests a new assessment and a new individualized education program to be developed.

- Reassessment

If the reassessment so indicates, a new individualized education program shall be developed.

CHAPTER 4.3. DEMONSTRATION PROGRAMS

- DEMONSTRATION PROGRAMS*

56400. Any special education local plan area may submit an application to the State Department of Education to operate a demonstration program for individuals with exceptional needs. Demonstration programs shall demonstrate creative methods of improving instruction, motivation, and achievement of individuals with exceptional needs by bringing together available resources, including, but not limited to, local districts, special education local plan areas, county offices, the State Department of Education, public agencies and private agencies. The total financial requirement of the demonstration program may not exceed the state entitlement which would otherwise be available.

- Application

The State Department of Education shall develop criteria for demonstration programs. The criteria shall be reviewed by the Advisory Commission on Special Education and approved by the State Board of Education. The special education local plan area shall include the criteria in its demonstration program application.

- Criteria

The goal of demonstration programs is to enhance instructional programs for individuals with exceptional needs. The program shall be under the direction of a qualified special education teacher, and the application to the state shall be reviewed by the special education local plan area community advisory committee and the bargaining unit for the certificated employees of the school district or county office that will conduct the demonstration program, and approved by the local board prior to submission. The State Department of Education may approve the

- Enhance Instructional Programs

*(Chapter Added in 1985)

initial application for a two-year period, and may renew the approval only if the department's evaluation of the demonstration program shows that there is evidence that the objectives of the program, as stated in the application are being achieved.

CHAPTER 4.4. EARLY EDUCATION FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS — EARLY EDUCATION

ARTICLE 1. General Provisions — GENERAL PROVISIONS

56425. As a condition of receiving state aid pursuant to this part, each district, special education local plan area, or county office that operated early education programs for individuals with exceptional needs younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those programs in the 1980-81 fiscal year, shall continue to operate infant programs in the 1981-82 fiscal year and each fiscal year thereafter. — Infant Program Mandate*

If a district or county office offered those programs in the 1980-81 fiscal year but in a subsequent year transfers the programs to another district or county office in the special education local plan area, the district or county office shall be exempt from the provisions of this section in any year when the programs are offered by the district or county office to which they were transferred. — Program Transfer

A district, county office or special education local plan area that is required to offer a program pursuant to this section shall be eligible for funding pursuant to Chapter 7 (commencing with Section 56700) of Part 30. — Funding

56426. The superintendent shall develop procedures and criteria to enable a district, special education services region, or county office to contract with private nonprofit preschools or child development centers to provide special education and related services to infant and preschool age individuals with exceptional needs. The criteria shall include minimum standards which must be met by the private, nonprofit preschool or center. — Criteria for Private Preschool Contracting

56427. (a) Not less than two million three hundred twenty-four thousand dollars ($2,324,000) of the federal discretionary funds appropriated to the State Department of Education under Public Law 94-142 in any fiscal year shall be expended for programs for handicapped infants, — Discretionary Funds for** Infant Programs

*(Section Amended in 1985)
**(Section Added in 1985)

until the department determines, and the Legislature concurs, that the funds are no longer needed for that purpose.

(b) Programs ineligible to receive funding pursuant to Section 56425 or 56728.8 may receive funding pursuant to subdivision (a).

56428. For the 1985-86 fiscal year, and each fiscal year thereafter, any instructional personnel service unit that was used in the prior fiscal year to provide services to children younger than three years of age shall continue to be used for that purpose. If a special education local plan area becomes ineligible for all or any portion of those instructional personnel service units operated and fundable in the prior fiscal year, the Superintendent of Public Instruction shall allocate those units to another local plan area for the purpose of providing services to children younger than three years of age.

- Maintenance of Infant* Services

56429. In order to assure the maximum utilization and coordination of local early intervention services, eligibility for the receipt of funds pursuant to Section 56425, 56427, or 56728.8 is conditioned upon the approval by the Superintendent of Public Instruction of a local plan for early intervention services, which approval shall apply for not less than one, nor more than three, years.

- Local Plan for Early* Intervention Services

Article 2. Legislative Intent

- LEGISLATIVE INTENT

56430. The Legislature hereby finds and declares that early intervention programs for handicapped infants, which provide educational, health, and social services with active parent involvement, can significantly reduce the potential impact of many handicapping conditions, and positively influence later development when the child reaches school age.

- Positive Influence on Later Development

It is the intent of the Legislature that existing services rendered by state agencies serving handicapped infants be coordinated and maximized.

- Coordinate and Maximize Existing Services

CHAPTER 4.5. CAREER AND VOCATIONAL EDUCATION PROGRAMS AND FUNDING

- CAREER/VOCATIONAL EDUCATION

56450. (a) To the extent that funding is available, the superintendent shall, by July 1, 1981, disseminate to districts, special education service regions, and county offices information relating to exemplary local and regional programs

- Disseminate Information on Exemplary Programs

*(Sections Added in 1985)

that deliver career and vocational education services to individuals with exceptional needs.

(b) The superintendent shall annually update and disseminate such information.

(c) Such information shall include, but not be limited to, descriptions of effective methods for coordinating career and vocational education services delivered by all the following, but not limited to, secondary schools, regional occupational centers and programs, community colleges, regional centers for the developmentally disabled, sheltered workshops, programs under the Comprehensive Employment and Training Act (P.L. 93-203), as amended, programs under the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and programs under the Vocational Education Act, (P.L. 94-482) as amended.

- Descriptions of Effective Methods

56451. The board shall, through the use of discretionary federal funds, encourage districts, special education services regions, and county offices to develop programs that coordinate career and vocational education services with other educational services for individuals with exceptional needs. Coordination includes, but is not limited to coordination among any of the entities and programs enumerated in subdivision (c) of Section 56450.

- Encourage Program Development/Coordination

56452. The superintendent shall ensure that the state annually secures all federal funds available for vocational education of individuals with exceptional needs.

- Secure Federal Funds

56453. The superintendent and the Department of Rehabilitation shall enter into an interagency agreement to ensure that the state annually secures all federal funds available under the Rehabilitation Act of 1973, as amended, and that coordination in applying for, distributing, and using funds available under the Vocational Education Act, as amended, the Rehabilitation Act of 1973, as amended, and the Education For All Handicapped Children Act of 1975, (P.L. 94-142), as amended, including, but not limited to, application for, and use thereof, be provided.

- Interagency Agreement with Department of Rehabilitation

56454. In order to provide districts, special education service regions, and county offices with maximum flexibility to secure and utilize all federal funds available to enable those entities to meet the career and vocational needs of individuals with exceptional needs more effectively and efficiently, and to provide maximum federal funding to those agencies for the provision of that education, the superintendent shall do all the following:

- State Superintendent's Responsibilities

(a) Provide necessary technical assistance to districts, special education service regions, and county offices.

(b) Establish procedures for these entities to obtain available federal funds.

(c) Apply for necessary waivers of federal statutes and regulations including, but not limited to, those governing federal career and vocational education programs.

56456. It is the intent of the Legislature that districts, special education service regions, and county offices may use any state or local special education funds for approved vocational programs, services, and activities to satisfy the excess cost matching requirements for receipt of federal vocational education funds for individuals with exceptional needs.

- Excess Costs Matching Requirements

CHAPTER 4.6. AWARENESS PROGRAM

- AWARENESS PROGRAM

56460. The Superintendent of Public Instruction shall establish an Awareness Program to help make nonhandicapped pupils aware of the special problems encountered by individuals with exceptional needs, and how those individuals overcome their problems. The program shall be conducted as a pilot project established in up to six school districts selected pursuant to Section 56461. The purposes of the Awareness Program shall be to do all of the following:

- Pilot Project*

(a) To impart knowledge about individuals with exceptional needs.

- Impart Knowledge

(b) To minimize the isolation of individuals with exceptional needs by breaking down barriers created by lack of understanding, fear, and curiosity.

- Minimize Isolation

(c) To increase the awareness of nonhandicapped pupils and teachers regarding physical barriers faced by individuals with exceptional needs, including, but not limited to, architectural barriers and transportation difficulties.

- Increase Awareness of Physical Barriers

(d) To demonstrate ways to increase the peer status and self-esteem of the disabled student.

- Demonstrate Ways to Increase Peer Status and Self-Esteem

56461. The superintendent shall solicit requests from school districts maintaining the grades kindergarten and 1 to 8, inclusive, to participate in the Awareness Program. The superintendent shall select up to six of these school districts located in the northern, central, and southern parts of the state to participate in the Awareness Program, based upon all of the following criteria:

- Superintendent Selects* Participating Districts

*(Sections Amended in 1985)

(a) The content and activities of the district's awareness program are designed to promote positive attitudes towards individuals with exceptional needs among other pupils by increasing their knowledge of, and experience with, individuals with exceptional needs. - Content and Activities

(b) The program training staff includes individuals with disabilities who are experienced in providing awareness programs to nonhandicapped pupils. - Program Training Staff

(c) The district has adopted a plan to disseminate the results of the pilot program to the other elementary and secondary schools located in the district. - Plan to Disseminate Results

(d) The district's budget for the development and implementation of the awareness program shall not exceed thirty-five thousand dollars ($35,000). - District's Budget

56462. The Awareness Program curriculum shall include, but not be limited to, all of the following: - Awareness Program Curriculum

(a) Materials and activities to help nonhandicapped pupils become aware of their prejudices toward individuals with disabilities and to provide direct contact with disabled persons. - Materials and Activities

(b) Small group sessions with structured experiences presented by disabled persons regarding their disabilities. - Small Group Sessions

(c) Multimedia presentations depicting disabled persons participating in all phases of our society. - Multimedia Presentations

56463. The superintendent shall develop a process for the evaluation and monitoring of the Awareness Program established in the selected districts. - Evaluation and Monitoring

56464. This chapter shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. - Repeal Date of January 1, 1988

CHAPTER 4.7. INTERAGENCY AGREEMENTS - INTERAGENCY AGREEMENTS

56475. (a) The superintendent and the directors of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Department of the Youth Authority, and the Employment Development Department shall develop written interagency agreements which include fiscal - Written Agreements - Fiscal Responsibilities

responsibilities for the provision of special education and related services to individuals with exceptional needs in the State of California.

(b) The superintendent shall develop interagency agreements with other state and local public agencies, as deemed necessary by the superintendent, to carry out the provisions of state and federal law.

- Other Agreements

(c) (1) Each interagency agreement shall be submitted by the superintendent to each legislative fiscal committee, education committee, and policy committee, responsible for legislation relating to those individuals with exceptional needs that will be affected by the agreement if it is effective.

- Submit to Legislature

(2) An interagency agreement shall not be effective sooner than 30 days after it has been submitted to each of the legislative committees specified in paragraph (2).

- Effective Date of Agreements

CHAPTER 5. PROCEDURAL SAFEGUARDS

- PROCEDURAL SAFEGUARDS

56500. As used in this chapter, "public education agency" means a district, special education services region, or county office, depending on the category of local plan elected by the governing board of a school district pursuant to Section 56170, or any other public agency providing special education or related services.

- Public Education Agency Definition

56500.1. All procedural safeguards of Public Law 94-142, the Education for All Handicapped Children Act of 1975, shall be established and maintained by each noneducational and educational agency that provides education, related services, or both, to children who are individuals with exceptional needs.

- PL 94-142 Procedural Safeguards

56500.2. An expeditious and effective process shall be implemented for the resolution of complaints regarding any alleged violations of the provisions of the Education for All Handicapped Children Act of 1975.

- Resolution of Complaints

56501. (a) The due process hearing procedures prescribed by this chapter extend to the pupil, the parent, and the public education agency involved in any decisions regarding a child under any of the following circumstances, and the pupil, the parent, and the public education agency involved may initiate the due process hearing procedures prescribed by this chapter under any of the following circumstances:

- Due Process Hearing Circumstances

(1) There is a proposal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child.

(2) There is a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child.

(3) The parent refuses to consent to an assessment of the child.

(b) The due process hearing rights prescribed by this chapter include, but are not limited to, all the following: - Hearing Rights

(1) The right to a mediation conference pursuant to Sections 56502 and 56503.

(2) The right to examine pupil records pursuant to Section 56504. This provision shall not be construed to abrogate the rights prescribed by Chapter 6.5 (commencing with Section 49060) of Part 27.

(3) The right to a fair and impartial administrative hearing at the state level, before a person knowledgeable in the laws governing special education and administrative hearings, under contract with the department, pursuant to Section 56505.

(c) In addition to the rights prescribed by subdivision (b), the parent has the following rights: - Additional Parent Rights

(1) The right to have the pupil who is the subject of the state hearing present at the hearing.

(2) The right to open the state hearing to the public.

56502. (a) All requests for a due process hearing shall be filed with the superintendent. The party initiating a due process hearing by filing a written request with the superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the superintendent. Within three days following receipt by the public education agency of a copy of such request, the public education agency shall advise the parent of free or low-cost legal services and other relevant services available within the geographical area. The superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation conducted pursuant to Section 56503, and a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56503 or 56505.

- Written Request for Hearing

- Low-Cost Legal Services

- 45 Days to Complete Hearing

(b) Notwithstanding any procedure set forth in this chapter, a public education agency and a parent may, if the party initiating the hearing so chooses, meet informally to resolve any issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free, appropriate public education to the child, to the satisfaction of both parties prior to the mediation conference. The informal meeting shall be conducted by the district superintendent, county superintendent, or director of the public education agency or his or her designee. Any designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

- Informal Meeting to Resolve Issues

(c) Upon receipt by the superintendent of a written request by the parent or public education agency, the superintendent or his or her designee or designees shall immediately notify, in writing, both parties of the request for the hearing and the proposed date for the mediation conference. The notice shall advise both parties of all their rights relating to procedural safeguards, including the right to waive the mediation conference. The superintendent shall inform the public education agency of its responsibility to advise the parent of free or low-cost legal services and other relevant services available within the geographical area.

- Notification of Both Parties

- Low-Cost Legal Services

56503. (a) It is the intent of the Legislature that the mediation conference be an intervening, informal process conducted in a nonadversarial atmosphere.

- Mediation Conference Nonadversarial

(b) The mediation conference shall be conducted prior to holding the administrative due process hearing pursuant to Section 56505, unless either party waives the mediation conference. The conference shall be completed within 15 days of receipt by the superintendent of the request for the hearing. Either party to the mediation conference may request the superintendent or his or her designee to grant a continuance. Such a continuance shall be granted upon a showing of good cause. Any continuance shall not extend the 45-day maximum for completion of the due process hearing and rendering of the final administrative decision, unless the party initiating the request for the hearing is agreeable to such an extension. Such continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

- 15 Days to Complete Conference

- Continuance

(c) The parent shall have the right, pursuant to Section 56504, to examine and receive copies of any documents contained in the child's file, maintained by the public education agency, prior to the date set for the mediation conference. The parent may be accompanied by a representative or representatives that he or she has chosen.

- Parent Right to Examine/ Receive Documents

(d) Based upon the mediation conference, the district superintendent, the county superintendent, or the director of the public education agency, or his or her designee, may resolve the issue or issues. However, such resolution shall not conflict with state or federal law and shall be to the satisfaction of both parties. A copy of the written resolution shall be mailed to each party within 10 days following the mediation conference. A copy shall also be filed with the Advisory Commission on Special Education.

- Resolution of Issues

(e) If the mediation conference fails to resolve the issues to the satisfaction of both parties, a state-level hearing pursuant to Section 56505 shall be held.

- Failure to Resolve Issues

(f) If the mediation conference fails to resolve the issues to the satisfaction of both parties, the mediator shall list any unresolved issues. A list of unresolved issues shall be reviewed and approved by the party initiating the hearing. These unresolved issues shall be the basis for the state-level hearing, prescribed by Section 56505.

- Unresolved Issues Basis for Hearing

(g) The mediation conference shall be conducted in accordance with regulations adopted by the board and shall be conducted by a mediator knowledgeable in the laws governing special education under contract with the department.

- Mediator

(h) Any mediation conference held pursuant to this section shall be held at a time and place reasonably convenient to the parent and pupil.

- Time and Place

(i) Notwithstanding the intent of the Legislature that the mediation conference be informal and nonadversarial, if the public education agency uses an attorney as its representative during any part of the conference, such use shall be governed by Section 56507.

- Use of Attorney

56504. The parent shall have the right and opportunity to examine all school records of the child and to receive copies pursuant to this section and to Section 49065 within five days after such request is made by the parent, either orally or in writing. A public educational agency may charge no more than the actual cost of reproducing such records, but if this cost

- Parent Right to Examine School Records/Receive Copies

effectively prevents the parent from exercising the right to receive such copy or copies the copy or copies shall be reproduced at no cost.

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. The hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department. - State Hearing

(b) The hearing shall be held at a time and place reasonably convenient to the parent and the pupil. - Time and Place

(c) The hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department. - Conducted by Knowledgeable Person

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree otherwise. - Pupil Placement During Hearing

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations: - Hearing Rights

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507. - Use of Attorney

(g) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 45 days from the receipt by the superintendent of the request for a hearing. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. The continuance shall be granted upon a showing of good cause. Any continuance shall extend the time for rendering a final - Written Decision Within 45 Days - Continuance

administrative decision for a period only equal to the length of the continuance.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties. - Final Administrative Determination

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered. - Hearing Officer Consider Cost

(j) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction. Any appeal to court by a public education agency or parent shall not operate as an automatic stay of enforcement of the final administrative determination. However, nothing in this section shall be construed to preclude either party to the hearing from seeking a stay of enforcement from any court of competent jurisdiction, and nothing in this section shall be construed to remove the requirement for parental consent for placement pursuant to subdivision (f) of Section 56506. - Right to Appeal to Court

56506. In addition to the due process hearing rights enumerated in subdivision (b) of 56501, the following due process rights extend to the pupil and the parent: - Additional Due Process Rights

(a) Written notice to the parent of his or her rights in language easily understood by the general public and in the primary language of the parent or other mode of communication used by the parent, unless to do so is clearly not feasible. The written notice of rights shall include, but not be limited to, those prescribed by Section 56341.

(b) The right to initiate a referral of a child for special education services pursuant to Section 56303.

(c) The right to obtain an independent educational assessment pursuant to subdivision (b) of Section 56329.

(d) The right to participate in the development of the individualized education program and to be informed of the availability under state and federal law of free appropriate public education and of all available alternative programs, both public and nonpublic.

(e) Written parental consent pursuant to Section 56321 shall be obtained before any assessment of the pupil is conducted unless the public education agency prevails in a due process hearing relating to such assessment.

(f) Written parental consent pursuant to Section 56321 shall be obtained before the pupil is placed in a special education program.

56507. (a) Except as provided in subdivisions (b) and (c), the public education agency shall not use the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during any part of a mediation conference, individualized education program meeting, or state hearing.

- Restrictions on Use of Attorney

(b) The public education agency may initiate the use of the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during a mediation conference, individualized education program meeting, or state hearing, provided that all the following requirements are satisfied:

- Public Education Agency Requirements

(1) The public education agency notifies the parent, in writing, of the use of such services at least three days prior to the mediation conference or individualized education program meeting, or at least 10 days prior to the state hearing, as appropriate.

- Notifies Parent

(2) The public education agency provides for a listing of attorneys knowledgeable in mediation conferences, individualized education program meetings, and state hearings to be provided to the parent.

- Provides Listing

(3) The public education agency bears only those costs of the services of any attorney provided to the parent for which the parent is required to pay. However, in no case shall such costs to the agency be greater than the cost to the agency for its own attorney services, including the cost of preparation and advice.

- Costs of Services

(c) (1) The public education agency may use the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during a mediation conference, individualized education program meeting, or state hearing, if the parent initiates the use of the services of an attorney. The parent shall notify the public education agency, in writing, of the use of such services at least three days prior to the mediation conference or individualized education program meeting or at least 10 days prior to the state hearing, as appropriate.

- Parent Initiates Use of Attorney
- Notify Public Education Agency

(2) If the parent uses the services of an attorney pursuant to paragraph (1), the parent shall bear his or her costs.

- Bearing Costs

If the public education agency uses the services of an attorney pursuant to paragraph (1), it shall bear its costs.

(d) Nothing in this section shall be construed to limit the use of attorney services by a public education agency other than for actual presentation of written argument, oral argument, evidence, or any combination thereof during any part of the mediation conference, individualized education program meeting, or state hearing.

- Limitations

CHAPTER 6. EVALUATION, AUDITS, AND INFORMATION

- EVALUATION, AUDITS, AND INFORMATION

56600. It is the intent of the Legislature to provide for ongoing comprehensive evaluation of special education programs authorized by this part. The Legislature finds and declares that the evaluation of these programs shall be designed to provide the Legislature, the State Board of Education, the Department of Education, and program administrators at county, district, and school levels with the information necessary to refine and improve policies, regulations, guidelines, and procedures on a continuing basis, and to assess the overall merits of these efforts.

- Legislative Intent on Program Evaluation

56601. Each district, special education services region, or county office shall submit to the superintendent at least annually a report in a form and manner prescribed by the superintendent. Such reports shall include that information necessary for the superintendent to carry out the responsibilities prescribed by Section 56602 and such other statistical data, program descriptions, and fiscal information as the superintendent may require.

- Annual Report to State Superintendent

56602. In accordance with a program evaluation plan adopted pursuant to subdivision (e) of Section 56100, the superintendent shall submit to the board, the Legislature, and the Governor, an annual evaluation of the special education programs implemented under this part. This evaluation shall:

- Annual Master Plan Evaluation

(a) Utilize existing information sources including fiscal records, child counts, other descriptive data, and program reviews to gather ongoing information regarding implementation of programs authorized by this chapter.

- Existing Information Sources

(b) Utilize existing information to the maximum extent feasible to conduct special evaluation studies of issues of statewide concern. Such studies may include, but need not be limited to, all of the following:

- Special Evaluation Studies

(1) Pupil performance.

(2) Placement of pupils in least restrictive environments.

(3) Degree to which services identified in individualized education programs are provided.

(4) Parent, pupil, teacher, program specialist, resource specialist, and administrator attitudes toward services and processes provided.

(5) Program costs, including, but not limited to:

(A) Expenditures for instructional personnel services, support services, special transportation services, and regionalized services.

(B) Capital outlay costs at the district and school levels, and for special education services regions, county offices, state special schools, and nonpublic, nonsectarian schools.

(C) Funding sources at the district, special education services region, county office, state special school, and nonpublic, nonsectarian school levels.

(c) Summarize and report on the results of special studies regarding the Master Plan for Special Education performed pursuant to Section 33406. - Report Results of Special Studies

(d) Identify the numbers of individuals with exceptional needs, their racial and ethnic data, their classification by designated instructional services, resource specialist, special day class or center, and nonpublic, nonsectarian schools, in accordance with criteria established by the board and consistent with federal reporting requirements. - Data on Individuals/ Settings

56603. The Department of Education shall, as part of the annual evaluation, report the information necessary to refine and improve statewide policies, regulations, guidelines, and procedures developed pursuant to this part. - Report Information to Improve Policies, etc.

56604. (a) The superintendent shall coordinate the design of school, district, county office, state, and independent evaluations to prevent duplication and to minimize data collection and reporting requirements at the school and district levels. - Coordinate Evaluations' Design

(b) The Department of Education and the independent evaluator shall utilize sampling procedures whenever feasible. - Utilize Sampling Procedures

56605. The superintendent shall periodically sponsor or conduct workshops and seminars for the education of district or county personnel assigned to, and responsible for, the evaluation of local special education programs. - Workshops and Seminars

56606. The superintendent shall provide for onsite program and fiscal reviews of the implementation of plans approved under this - Onsite Program/Fiscal Reviews

part. In performing such reviews and audits, the superintendent may utilize the services of persons outside of the department chosen for their knowledge of special education programs. Each district, special education services region, or county office shall be reviewed at least once during the period of approval of its local plan.

CHAPTER 7. FUNDING OF SPECIAL EDUCATION PROGRAMS

- FUNDING OF SPECIAL EDUCATION PROGRAMS

Article 1. State Aid Apportionments

- STATE AID APPORTIONMENTS

56700. In fiscal year 1980-81 and in each fiscal year thereafter all apportionments to districts, special education services regions, and county offices for special education programs and services shall be computed pursuant to this chapter.

- Apportionments Computed Pursuant to Chapter 7

56701. The superintendent shall apportion funds for instructional personnel services, support services, and transportation services from Section A of the State School Fund directly to districts and county offices in accordance with the annual budget plan submitted pursuant to subdivision (e) of Section 56200, unless the plan specifies an alternative recipient.

- Funds Apportioned Per Annual Budget Plan

56702. The superintendent shall apportion funds for regionalized services from Section A of the State School Fund to the administrative entity specified in the local plan to receive and distribute such funds. Upon receipt, each entity shall distribute the funds in accordance with the allocation plan adopted pursuant to subdivision (e) of Section 56200.

- Funds for Regionalized Services

Article 2. Computation of State Aid

- COMPUTATION OF STATE AID

56710. The county superintendent shall compute, pursuant to this article, apportionments for state aid for special education programs and services for each district or county office operating special education programs and services.

- County Superintendent Computes Apportionments

56711. The county superintendent shall compute for each district and county office the sum of all the following:

- Compute Sum*

(a) Instructional personnel services amount pursuant to Article 3 (commencing with Section 56720).

(b) Support services amount pursuant to Article 4 (commencing with Section 56730).

*(Section Amended in 1985)

(c) Amount for pupils in nonpublic, nonsectarian schools pursuant to Article 5 (commencing with Section 56740).

(d) Amount for instructional time entitlement for special day classes under Sections 46200.5 and 46201.5.

56712. From the sum computed pursuant to Section 56711, the county superintendent shall subtract all the following:

- Subtract from Sum:

(a) Applicable special education federal funds received by each district or county office.

- Federal Funds

(b) For the 1981-82 fiscal year only, an amount equal to the difference, if positive, between the sum of state aid received pursuant to this chapter, local general fund contribution, federal funds, and district revenue limits for special day classes and centers, and county taxes for special education for the prior fiscal year, and the amount actually spent on special education programs and services pursuant to this part, for the prior fiscal year.

- Prior Year Balances

(c) The property taxes allocated to special education programs pursuant to Section 2572.

- Property Taxes

(d) The district revenue limit amounts for pupils in special day classes and centers in each district or county office.

- District Revenue Limit for SDC/Center Classes

(e) The local general fund contribution for special education computed pursuant to Article 6 (commencing with Section 56750).

- Local General Fund Contribution

(f) Any amounts allocated to school districts for special education programs pursuant to subdivision (b) of Section 56713.

- Amounts Allocated Pursuant to 56713(b)

56713. (a) The amount computed pursuant to Section 56712 shall be apportioned as state aid. Commencing with the 1980-81 fiscal year and each fiscal year thereafter, state aid shall be apportioned as part of the apportionments prescribed by Sections 41330, 41332, and 41335.

- State Aid Apportioned as Prescribed

(b) Commencing in the 1982-83 fiscal year and for each fiscal year thereafter if, for any county office, the remainder computed pursuant to Section 56712 is a negative amount, no state aid shall be distributed to that county office for purposes of Section 56711. In addition, the county superintendent shall allocate an amount equal to that negative amount to school districts in that county on the basis of the district's average unduplicated pupil counts for the fall and spring semesters for the then current fiscal year.

- Reallocation of Excess Revenues

56714. The superintendent shall adopt rules and regulations for the implementation of this chapter.

- Superintendent Rules/ Regulations

Article 3. Instructional Personnel Services - INSTRUCTIONAL PERSONNEL SERVICES

56720. The county superintendent shall compute, pursuant to this article, instructional personnel services amounts for each district and county office operating special education programs and services. - County Superintendent Computes IPS Amounts

56721. Each district or county office shall submit to the county superintendent its 1979-80 average salaries and benefits paid for providing special education services, based on the regular school year, for the following instructional personnel: - Average Salaries/Benefits Paid for Instructional Personnel

(a) Special class teachers.

(b) Resource specialists; or for entities that did not operate under the master plan during fiscal year 1979-80, learning disability group teachers; or for entities that operated partially under the master plan during fiscal year 1979-80, resource specialists, and learning disability group teachers.

(c) Certificated specialists providing designated instruction and services.

(d) (1) Special education instructional aides for special classes and centers, and resource specialists. - Aides

(2) Average salaries and benefits for such aides for the purpose of this section only shall be the greater of the district's or county office's:

(A) Average salary and benefits for a full-time equivalent special education instructional aide based on the average number of hours actually worked per instructional aide per day.

(B) Average annual salaries and benefits for six hours of special education instructional aide time.

56722. For each district or county office, the county superintendent shall compute an instructional personnel cost unit rate based on the 1979-80 costs submitted pursuant to Section 56721 for each of the following instructional personnel services: - Compute Unit Rate Based on* 1979-80 Costs for Instructional Personnel Services

(a) Special classes and centers with one special class teacher, using the amount computed pursuant to subdivision (a) of Section 56721.

(b) Special classes and centers for the severely handicapped, as defined in Section 56030.5, with one special class teacher and one instructional aide, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

*(Section Amended in 1985)

(c) Special classes and centers for the severely handicapped, as defined in Section 56030.5, with one special class teacher and two instructional aides, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(d) Resource specialist programs with one resource specialist only, using the amount computed pursuant to subdivision (b) of Section 56721.

(e) Resource specialist programs with one resource specialist and one instructional aide, using the amounts computed pursuant to subdivision (b) of Section 56721 and 85 percent of the amount computed to subdivision (d) Section 56721.

(f) Certificated specialists providing designated instruction and services, using the amount computed pursuant to subdivision (c) of Section 56721. For the purpose of this subdivision, aides providing designated instruction and services may be funded in lieu of a certificated specialist.

(g) Special classes and centers for other than the severely handicapped with one special class teacher and one instructional aide using the amount computed pursuant to subdivison (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

(h) Special classes and centers for other than the severely handicapped with one special class teacher and two instructional aides using the amount computed pursuant to subdivision (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

56723. For fiscal year 1980-81 the county superintendent shall multiply the unit rates computed pursuant to Section 56722 by 1.09. For fiscal year 1981-82, the unit rates shall be increased by 5 percent. For fiscal year 1983-84, the unit rates shall be increased by 8 percent. Commencing with fiscal year 1984-85 and each fiscal year thereafter, the unit rates shall be increased by the statewide average percentage inflation adjustment computed for revenue limits of school districts.

- Inflation Factor

56724. In the event a district or county office claims special education allowances for an instructional personnel service it did not offer in 1979-80 and for which an instructional personnel cost unit rate was not computed, such district or county office shall use the statewide average unit rate for the then current fiscal year for that instructional personnel service.

- Statewide Average Unit Rate

56725. For each of the instructional personnel services specified in Section 56722 for which funds have been budgeted pursuant to subdivision (e) of Section 56200, the county superintendent shall multiply the units of instructional personnel service computed pursuant to Section 56760 by the appropriate unit rate for the district or county office for the then current fiscal year.

- County Superintendent Multiplies Units

56726. For each district and county office that operates an extended year program, which is required by statute, the following amount shall be computed:

- Extended Year Computation

(a) For special classes, excluding those funded under subdivision (b):

- Special Classes/Non-severely Handicapped

(1) Divide the number of days taught in extended session for special classes, not to exceed 30, by the number of days in the regular school year.

(2) Multiply the quotient computed pursuant to paragraph (1) by the unit rate computed pursuant to subdivision (g) of Section 56722, as adjusted pursuant to Section 56723, and multiply the product by 0.6.

(3) Divide the enrollment in special classes as of the second week of extended session by 11; round up to the nearest whole number; and multiply by the product computed pursuant to paragraph (2).

(b) For special centers or classes for severely handicapped pupils, as defined in Section 56030.5.

- Special Centers-Classes/ Severely Handicapped

(1) Divide the number of days taught in extended session for special classes or centers, not to exceed 55, by the number of days in the regular school year.

(2) Multiply the quotient computed pursuant to paragraph (1) by the unit rate computed pursuant to subdivision (c) of Section 56722, as adjusted pursuant to Section 56723.

(3) Divide the enrollment in special classes or centers as of the second week of extended session by 7; round up to the nearest whole number; and multiply by the product computed pursuant to paragraph (2).

(c) For designated instruction and services for pupils in special classes during extended session:

- DIS in Special Classes

(1) Divide the number of classes computed pursuant to paragraph (3) of subdivision (a) by 3 and multiply that amount by the product computed by multiplying the quotient computed pursuant to paragraph (1) of subdivision (a) by the unit rate

computed pursuant to subdivision (f) of Section 56722, as adjusted pursuant to Section 56723.

(2) Divide the number of classes computed pursuant to paragraph (3) of subdivision (b) by 3 and multiply that amount by the product computed by multiplying the quotient computed pursuant to paragraph (1) of subdivision (b) by the unit rate computed pursuant to subdivision (f) of Section 56722, as adjusted pursuant to Section 56723.

(3) Multiply the amount computed pursuant to paragraph (1) by 0.6.

- County Superintendent* Computes Sum

56727. The county superintendent shall compute the sum of the amounts computed pursuant to Section 56725 and 56726.

- State Aid Shall Not Exceed Units Actually in Operation

56728. Notwithstanding subdivision (d) of Section 56760, state aid for instructional personnel service units operated during the regular school year and during extended year programs shall not exceed the number of units actually in operation for the then current fiscal year. Districts and county offices shall be entitled to the full unit rates computed pursuant to subdivisions (b), (c), (e), (g), and (h) of Section 56722 in regular year and extended year programs only if the appropriate number of instructional aides are actually used.

- Aide Unit Rate for Non-severely Handicapped Reduced by 15 Percent

For the purposes of computing funding for aides other than those in classes for the severely handicapped, a full-time equivalent aide shall be equivalent to .85 times a full-time equivalent aide entitlement for those aides in the 1980-81 fiscal year.

- April Unduplicated Pupil* Count

56728.5. As a condition of receiving state aid pursuant to this chapter, a district or county office of education shall report in April of each year, on forms provided for this purpose by the Superintendent of Public Instruction, the count of the number of pupils receiving special education services provided by the district or county office in the spring semester. The report shall individually report the unduplicated count in special day classes, resource specialist programs, and designated instructional services, and shall distinguish between pupils residing in licensed children's institutions, foster family homes, residential medical facilities, other similar facilities, and all other pupils.

- Data Collection

The Superintendent of Public Instruction shall collect, as necessary, data from school districts, county offices of education, and other public and private agencies having information on licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities.

*(Sections Amended in 1985)

56728.6. (a) Notwithstanding subdivision (d) of Section 56760, in the 1985-86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to children three years of age or older at the second principal apportionment of the prior fiscal year, so long as the pupil count divided by the number of instructional personnel service units is equal to or greater than the following:

- Loading of Instructional* Units for Growth

(1) For special classes and centers -- 9, based on the unduplicated pupil count.

(2) For resource specialist programs -- 21, based on the unduplicated pupil count.

(3) For designated instruction and services -- 20, based on the unduplicted pupil count, or 39, based on the duplicated pupil count.

(b) Notwithstanding subdivision (d) of Section 56760, in the 1984-85 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of instructional personnel service units for services to children three years of age or older in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the Superintendent of Public Instruction.

- Authorization for Additional Units

(1) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the percentage of pupils in kindergarten and grades 1 through 12 enrolled in special education programs, excluding pupils less than three years of age, would exceed 10 percent.

(2) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the ratio of pupils in kindergarten and grades 1 through 12 receiving a specific instructional service, excluding pupils less than three years of age, would exceed the following:

(A) For special classes and centers - 0.028 percent.

(B) For resource specialist programs - 0.040 percent.

(C) For designated instruction services - 0.042 percent.

(3) The superintendent may authorize additional units for a special education local plan area only if the area's pupil-instructional personnel

*(Section Repealed and Added in 1985)

unit ratios, based on the unduplicated pupil count, meet or exceed the ratios specified in paragraphs (1), (2), and (3) of subdivision (a).

- Growth Criteria

(c) The Superintendent of Public Instruction shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria which shall include, but not be limited to, all of the following:

(1) Changes in the total number of pupils enrolled in kindergarten and grades 1 through 12.

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(3) Lower than average and higher than average percentages of pupils in kindergarten and grades 1 through 12 who are currently enrolled in special education programs.

- Superintendent Waivers

(d) A special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall consider the following:

(1) Pupil density of 25 or fewer units of average daily attendance per square mile in local plan areas of 30,000 or fewer average daily attendance, or pupil density of 20 or fewer units of average daily attendance per square mile in local plan areas of more than 30,000 average daily attendance.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities within the boundaries of a local plan if 5 percent or more of the local plan's unduplicated pupil count resides in those facilities.

- Waiver of Standards

(e) For the purpose of this section, a special education local plan area may apply for, and the superintendent may grant, a waiver of the standards specified in paragraph (2) of subdivision (b) if the waiver is programmatically justified.

- Restrictions on Authorizing Growth Units

(f) By authorizing units pursuant to this section, the superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation specifically for growth in the number of

instructional personnel service units is made in the annual Budget Act or other legislation. If such an appropriation is made, units authorized by the superintendent pursuant to this subdivision that result in an increase in the statewide total number of instructional personnel service units are subject to the following restrictions:

(1) The units shall be funded only by such appropriation and no other funds may be apportioned for the units.

(2) All units shall be fully funded pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

(g) This section shall become operative July 1, 1985. - Operative Date

56728.8. (a) Notwithstanding subdivision (d) of Section 56760, for the 1985-86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to individuals with exceptional needs younger than three years of age at the second principal apportionment of the prior fiscal year, so long as the unduplicated pupil count of these pupils divided by the number of instructional personnel service units is not less than the following: - Loading of Instructional* Units for Growth for Infant Programs

(1) For special classes and centers - 12.

(2) For resource specialist programs - 24.

(3) For designated instruction and services - 12.

(b) Notwithstanding subdivision (d) of Section 56760, in the 1985-86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of instructional personnel service units for services to individuals with exceptional needs younger than three years of age in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the Superintendent of Public Instruction. - Authorization for Additional Units

(c) The Superintendent of Public Instruction shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria that shall include, but not be limited to, the following: - Growth Criteria

(1) Changes in the total number of pupils younger than three years of age enrolled in special education programs.

*(Section Added in 1985)

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(d) Notwithstanding subdivision (e) of Section 56760 infant programs in special classes and centers funded pursuant to this item shall be supported by two aides unless otherwise required by the Superintendent of Public Instruction. - Two Aides for Special Classes/Centers

(e) Infant services in resource specialist programs funded pursuant to this item shall be supported by one aide. - One Aide for Resource Specialist Program

(f) In determining the number of instructional personnel service units for which a special education local plan area may qualify, a minimum of six infants shall constitute eligibility for the initial unit. However programs operating pursuant to Section 56425 shall be allowed a minimum of one initial unit for the 1985-86 fiscal year. When units are allocated pursuant to this subsection, the Superintendent of Public Instruction shall allocate only the least expensive unit appropriate. - Minimums

(g) Beginning with the 1986-87 fiscal year, those programs operating pursuant to Section 56425 with fewer than six infants shall receive a partial unit, as determined by the Superintendent of Public Instruction. - Partial Unit

(h) A special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall give priority to the following factors: - Superintendent Waivers

(1) Pupil density of 25 or fewer units of average daily attendance per square mile in local plan areas of 30,000 or fewer average daily attendance, or pupil density of 20 or fewer units of average daily attendance per square mile in local plan areas with an average daily attendance of more than 30,000.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, or similar facilities with the boundaries of a local plan if 5 percent or more of the local plan's unduplicated pupil count resides in those facilities.

(i) By authorizing units pursuant to this section, the superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation - IPSU Restrictions

specifically for growth in the number of instructional personnel service units is made in the annual Budget Act or other legislation. If such an appropriation is made, units authorized by the superintendent pursuant to this section are subject to the following restrictions:

(1) The units shall be funded only by such an appropriation and no other funds may be apportioned for the units.

- NOTE: See Noncodified Section 11.5 Regarding Computations on Page 156

(2) All units shall be fully funded pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

Article 4. Support Services

- SUPPORT SERVICES

56730. The county superintendent shall compute, pursuant to this article, a support services amount for each district and county office operating special education programs and services pursuant to this article.

- County Superintendent Computes Support Services Amount

56730.5. (a) For the 1985-86 fiscal year, the Superintendent of Public Instruction shall adopt and disseminate to all local education agencies, program cost accounting procedures that meet all of the following conditions:

- Program Cost Accounting* Procedures

(1) The procedures shall require all local education agencies to use the same methods of allocating direct support costs to specific programs.

(2) The methodology used to allocate direct support costs shall be readily supported by documentation or be the result of standards prescribed by the cost accounting procedures.

(3) For each category of support costs, a single allocation method shall be employed unless documentation as prescribed by the accounting procedures specified by the Superintendent of Public Instruction is available.

(b) Local education agencies shall be required to use the cost accounting procedures provided for under this section during the 1985-86 fiscal year, and to report their 1985-86 fiscal year costs to the State Department of Education using these procedures on forms prescribed by the Superintendent of Public Instruction.

56730.6. Within one year of the issuance of accounting standards and criteria pursuant to Section 56730.5, the Legislative Analyst and the Department of Finance shall review and comment upon the results of a study of comparable public and nonpublic school costs for services provided to individuals with exceptional needs to be conducted by the California Association of Private Special Education Schools.

- Study of Comparable Public/ Nonpublic School Costs

*(Section Repealed and Added in 1985)

56731. Each district and county office shall submit to the county superintendent the sum of salaries and benefits paid to instructional personnel, excluding substitute teachers, specified in Section 56721 for providing special education services, based on the regular school year, plus the sum of salaries and benefits paid to instructional personnel specified in Section 56721 for providing special education services for extended year programs during fiscal year 1979-80, plus the increase in salary and benefit costs for instructional aides associated with the unit rates computed pursuant to Article 3 (commencing with Section 56720) of this part.

- Submit Sum of Salaries and Benefits

56732. Each district and county office shall submit to the county superintendent the adjusted operating costs for special education in fiscal year 1979-80. Adjusted operating costs shall be computed by reducing the total cost for special education reported by the district or county superintendent for fiscal year 1979-80 less the costs of special transportation, services provided by nonpublic, nonsectarian schools, tuition paid to other school districts or county offices for special education programs and services during the 1979-80 fiscal year but not paid during the 1980-81 fiscal year, pregnant minors programs, programs to provide instruction in the home or hospital for pupils with temporary physical disabilities, and, if appropriate, regionalized services, as enumerated in subdivision (c) of Section 56220.

- Submit Adjusted Operating Costs

The amount included in the total cost of special education for indirect support costs shall not exceed 4 percent of the sum of direct costs plus direct support costs.

- Indirect Support Costs 4 Percent Cap

56733. The county superintendent shall compute a support services quotient as follows:

(a) Subtract the sum computed pursuant to Section 56731 from the sum computed pursuant to Section 56732.

(b) Divide the amount computed pursuant to subdivision (a) by the sum computed pursuant to Section 56731.

- County Superintendent Computes Support Services Ratio

56734. The support services amounts to each district and county office for the 1980-81 fiscal year shall be the amount computed pursuant to Section 56727 multiplied by the quotient computed pursuant to Section 56733.

- 1980-81 Support Services Computation

56735. (a) The superintendent shall recommend for audit to the Controller districts or county offices whose 1979-80 fiscal year support services quotient exceeded 125 percent of the

- Controller Audit of Support Services

state average support services quotient, computed pursuant to subdivision (b), for comparably sized districts.

(b) The superintendent shall compute average support services quotients for the 1979-80 fiscal year for the following groups of districts. As used in this section, "average daily attendance" is the district's regular average daily attendance.

(1) Elementary districts of 100 or less units of average daily attendance.

(2) Elementary districts with more than 100 and less than 901 units of average daily attendance.

(3) High school districts with less than 301 units of average daily attendance.

(4) Unified districts with less than 1,501 units of average daily attendance.

(5) Elementary districts with greater than 900 units of average daily attendance.

(6) High school districts with more than 300 units of average daily attendance.

(7) Unified districts with greater than 1,500 units of average daily attendance.

(c) For purposes of this section, county offices shall be treated as districts within the meaning of paragraph (7) of subdivision (b).

(d) In addition to the audits specified in subdivision (a), the Controller may select a representative cross-section of districts to audit.

(e) The Controller may review the criteria for identifying special education costs to be issued pursuant to Section 56730.5, and make recommendations in their audit report.

56736. It is the intent of the Legislature that the adjusted operating costs for special education as computed pursuant to Section 56732 exclude all costs associated with the services enumerated in subdivision (c) of Section 56220 regardless of whether the district or county office operated under the Master Plan for Special Education during the 1979-80 fiscal year and regardless of whether the district or county office received special funding for these services. The Superintendent of Public Instruction shall:

- Adjusted Operating Costs Exclude Regionalized Services Costs

(a) Identify the costs associated with the services enumerated in subdivision (c) of Section 56220 for all districts and county offices during the 1979-80 fiscal year.

- Identify Regionalized Services Costs

(b) Recompute the support services quotients for districts and county offices, excluding the costs identified in subdivision (a) from the

- Recompute Support Services Ratio, Minus Regionalized Services Costs, Not to Exceed $93 Per Pupil

computation, not to exceed ninety-three dollars ($93) per unduplicated pupil count.

56737. For the 1981-82 fiscal year and for each fiscal year thereafter, the Superintendent of Public Instruction shall:

- Support Services Ratio Squeeze

(a) Compute the statewide unweighted average of the support services quotients computed pursuant to Section 56736, for the 1980-81 fiscal year.

- Nonseverely Handicapped Support Services Ratio

(b) Compute a support services quotient for each district and county office claiming reimbursement pursuant to this chapter for the then current fiscal year for instructional personnel services units, other than for the severely handicapped, as defined in Section 56030.5, in the following manner:

- Greater Than 150 Percent Statewide Average

(1) If the support services quotient for the prior fiscal year is greater than 1.5 times the average quotient computed pursuant to subdivision (a), then the quotient for the current fiscal year shall be 1.5 times the average quotient computed pursuant to subdivision (a).

- Equal to or Below 150 Percent Statewide Average

(2) If the support services quotient for the prior fiscal year is less than or equal to 1.5 times the average quotient computed pursuant to subdivision (a) but greater than the average quotient computed pursuant to subdivision (a), then the quotient for the then current fiscal year shall be the greater of (A) or (B):

(A) The average computed pursuant to subdivision (a).

(B) The support services quotient for the prior fiscal year minus 0.1.

- Less Than or Equal to Statewide Average

(3) If the support services quotient for the prior fiscal year is less than or equal to the average quotient computed pursuant to subdivision (a), then the quotient for the then current fiscal year shall be equal to the quotient for the prior fiscal year.

- Average Ratio

(4) If a district or county office did not operate special education programs and services in the fiscal year, its support services quotient for the then current fiscal year shall be the lesser of (A) or (B).

(A) The average quotient computed pursuant to subdivision (a).

(B) The statewide unweighted average for the appropriate class district or county office identified in Section 56735.

- Severely Handicapped Support Services Ratio Shall Not Exceed 150 Percent of Statewide Average

(c) The support services quotient for special day class instructional personnel services units for the severely handicapped, as defined in Section 56030.5, shall be the quotient for the prior fiscal year, except that that quotient

shall not exceed 1.5 times the average quotient computed pursuant to subdivision (a).

(d) No district or county office which had a nonseverely handicapped support services ratio of 1.5 times the average in the 1981-82 fiscal year shall have that average reduced below 1.15 times the average in subsequent years.

- Nonseverely Handicapped Support Services Ratio Reduced to 115 Percent of Statewide Average

(e) Compute a total support services amount for each district and county office equal to the sum of (1) and (2):

- Compute Total Support Services Amount

(1) Multiply the support services quotient for the current fiscal year computed pursuant to subdivision (b) or (c) by the instructional amounts for the appropriate types of programs, computed pursuant to Section 56725.

(2) Multiply the support services quotient for the current fiscal year computed pursuant to subdivision (b) by the extended year amount computed pursuant to Section 56726. Support services amounts for extended year programs for other than the severely handicapped, as defined in Section 56030.5, shall be divided by 2.

- Extended Year Nonseverely Handicapped Support
- Services Amounts Reduced by 50 Percent

56738. Notwithstanding Section 56737, the support services amounts for the following instructional personnel services units shall be one-half of the amounts computed for those units pursuant to Section 56737:

- 50 Percent Growth Limitation for IPSU/DIS Support Services

(a) All instructional personnel services units added between the end of the first principal apportionment period and the end of the second principal apportionment period during a single fiscal year.

(b) Any designated instruction and services units in excess of the number of those units operated during the 1980-81 fiscal year.

56739. (a) When allocating funds received for special education pursuant to this article, it is the intent of the Legislature that, to the extent funding is available, school districts and county offices shall give first priority to expenditures to provide specialized books, materials, and equipment which are necessary and appropriate for the individualized education programs of pupils with low-incidence disabilities, up to a maximum of five hundred dollars ($500) per pupil with low-incidence disability. Nothing in this subdivision shall be construed to prohibit pooling the prioritized funds to purchase equipment to be shared by several pupils.

- Legislative Intent for Expenditure of Funds for Specialized Books, Materials, and Equipment

(b) Equipment purchased pursuant to this section shall include, but not necessarily be limited to, nonprescriptive equipment, sensory aids, and other equipment and materials as appropriate.

Article 5. Nonpublic, Nonsectarian School Services

- NONPUBLIC, NONSECTARIAN SCHOOL SERVICES

56740. The superintendent shall apportion to each district and county office 70 percent of the cost of tuition in excess of the revenue limit and applicable federal funds for pupils enrolled in nonpublic, nonsectarian schools pursuant to Sections 56365 and 56366.

- 70 Percent Excess Cost

56741. (a) As a condition to receiving an apportionment pursuant to Section 56740, together with the December pupil count of individuals with exceptional needs required pursuant to federal law, and the April pupil count required pursuant to Section 56728.5, a district or county office shall submit a report to the superintendent, on forms provided by the superintendent for that purpose, which shall include all of the following information:

- Nonpublic School Program Placement Costs Data

(1) The individual contracted program placement costs of providing special education, transportation, residential, and designated instructional services to individuals with exceptional needs placed in nonpublic, nonsectarian schools pursuant to Sections 56365 and 56366.

(2) The individual program placement costs specified in paragraph (1) shall be listed according to the placement categories of individuals with exceptional needs, including, but not limited to, all of the following categories:

(A) Full-day placement.

(B) Partial day placement.

(C) Residential placement within the state.

(D) Residential placement outside the state.

(b) Beginning September 15, 1985, the superintendent shall prepare a report of the data collected pursuant to subdivision (a) by September 15 of each year.

- Report of Data

56742. Every district or county office of education which receives state funding pursuant to Section 56740 shall, as a condition of that apportionment, report to the Superintendent of Public Instruction on forms provided for that purpose, when the total cost of a placement of an individual with exceptional needs in a nonpublic, nonsectarian school exceeds by more than 100 percent the average cost, both instructional and support, including transportation and designated instructional services, of serving a pupil in a special day class in the district or county office. If the district or county office does

- Report Nonpublic School Cost Exceeding More Than 100 Percent Average Cost

not operate special day classes, then the figure used shall be the average special day class cost, both instructional and support, in the region.

The report shall include:

(a) The name of the nonpublic, nonsectarian school in which the individual with exceptional needs is placed.

(b) A brief description of the services provided to that individual.

(c) The total costs of the placement for that individual.

56743. Notwithstanding Section 56740, the Superintendent of Public Instruction shall not apportion additional funds to districts or county offices on behalf of those placements reported by districts and county offices pursuant to Section 56742 if the increase claimed from one year to the next exceeds the percentage increase specified by Section 56723, or an in-lieu percentage specified by the Budget Act, unless he or she makes a specific and individual finding that a greater increase is warranted.

- Nonpublic School Cost Increases Exceeding Inflation Factor

Article 6. Local General Fund Contribution

- LOCAL GENERAL FUND CONTRIBUTION

56750. The county superintendent shall compute, pursuant to this article, a local general fund contribution for special education for each district operating special education programs and services.

- Computation by County Superintendent

56751. The county superintendent shall compute an adjusted local general fund contribution amount for each district by subtracting the amount computed pursuant to subdivision (a) from the amount computed pursuant to subdivision (b).

- Method of Computation

(a) The sum of the district's state aid apportionments for special education, applicable federal funds, revenue limits for pupils in special classes and centers, and tuition earned by the district from operating special education programs for other districts and county offices, exclusive of such revenue earned for providing special transportation, contracting for nonpublic, nonsectarian school services, and earned on account of pregnant minors programs and programs to provide instruction in the home or hospital for pupils with temporary physical disabilities for the 1979-80 fiscal year.

(b) The district's total reported cost of operating special education programs and services exclusive of the costs of providing special transportation, contracting for nonpublic,

nonsectarian school services, and providing pregnant minors programs and instruction in the home or hospital for pupils with temporary physical disabilities for the 1979-80 fiscal year.

The amount included in total cost of special education for indirect support costs shall not exceed 4 percent of the sum of direct costs plus direct support costs. - Indirect Support Costs Limitation

56752. The amount computed pursuant to Section 56751 shall be divided by such district's second principal apportionment regular average daily attendance in the 1979-80 fiscal year. - ADA Adjustments for Fiscal Year 1979-80

56753. The amount computed pursuant to Section 56752 shall be multiplied by the second principal apportionment regular average daily attendance of such district for the then current fiscal year. - ADA Adjustment for Current Fiscal Year

56754. The local general fund contribution for each district shall be the lesser of the amounts computed pursuant to Section 56751 or Section 56753. - Local General Fund Contribution

Article 7. Service Proportions - SERVICE PROPORTIONS

56760. The annual budget plan, required by subdivision (e) of Section 56200, shall comply with the following proportions, unless a waiver is granted by the superintendent pursuant to Section 56761: - Annual Budget Plan* Compliance

(a) The district, special education services region, or county office shall estimate the pupils to be served in the subsequent fiscal year by instructional personnel service. Such estimate shall be computed as the ratio of pupils to be served by instructional personnel service to the enrollment of pupils in kindergarten and grades 1 to 12, inclusive, of the districts and county offices participating in the plan.

(1) The ratio of pupils funded by the state by instructional personnel service during the regular school year, including pupils for whom education and services are provided for by contract with nonpublic, nonsectarian schools, to the enrollment in kindergarten and grades 1 to 12, inclusive, shall not exceed 0.10. - Funded Ratio Not to Exceed 10 Percent

(2) The ratio of pupils funded by the state by instructional personnel service to the enrollment in kindergarten and grades 1 to 12, inclusive, receiving a specific instructional service shall not exceed the following: - Specific Instructional Service Ratio Caps

(A) For special classes and centers, 0.028.

(B) For resource specialist programs, 0.040.

(C) For designated instruction services, 0.042.

*(Section Amended in 1985)

(b) The district, special education services region, or county office shall divide the amounts in paragraphs (1), (2), and (3) by the appropriate ratios computed pursuant to paragraph (2) of subdivision (a).

- Divide Amounts by Appropriate Computed Ratios

(1) For special classes and centers, 10 pupils.

(2) For resource specialist programs, 24 pupils.

(3) For designated instruction and services, 24 pupils.

(c) The district, special education services region, or county office shall divide the sum of the estimated enrollments on October 1 of the subsequent fiscal year in kindergarten and grades 1 to 12, inclusive, of each district and county office participating in the plan by each of the amounts computed pursuant to paragraphs (1), (2), and (3) of subdivision (b).

- Divide Sum of Estimated Enrollments

(d) The amounts computed pursuant to subdivision (c) shall be the authorized instructional personnel service units the state will fund for the district, special education services region, or county office in the then current year. The allocation of these instructional personnel service units shall be described in the annual budget plan.

- Authorized IPSUs State Will Fund

(e) The number of units of instructional services funded pursuant to this article for a local plan shall not exceed for special classes and centers, an average of one teacher and 1.05 aide per special class or center actually operated.

- Special Class/Center Average 1 Teacher - 1.05 Aide

56761. (a) A district, special education services region, or county office may request, and the superintendent may waive, any of the proportions specified in Section 56760. Such waiver shall be granted only where compliance would both prevent the provision of a free, appropriate public education and would create undue hardship, as follows:

- State Superintendent Waivers of Service Proportions

(1) For special classes and centers: proximity of the district, special education services region, or county office to state hospitals, licensed children's institutions, foster care facilities, or other facility may increase the expected numbers of individuals with exceptional needs requiring placement in special classes and centers.

- Special Classes/Center

(2) For resource specialist programs and designated instruction and services: the district, special education services region, or county office has implemented the eligibility

- Resource Specialist Program/DIS

criteria adopted by the board, and failure to grant the waiver may result in eligible pupils receiving inappropriate services.

(3) For the proportions specified in subdivision (b) of Section 56760: low pupil density in sparsely populated areas creates problems of distance and inaccessibility for the district, special education services region, or county office.

- Proportions

(b) A school district, special education services region, or county office may request the superintendent to waive one or more of the maximum unit proportions set forth in Section 56760. Such request shall be granted only if it demonstrates that the increased cost of exceeding the standard in one instructional setting is offset by savings in another instructional setting.

- Request to Waive Maximum Unit Proportions

56762. The superintendent shall adopt rules and regulations to ensure that apportionments made pursuant to this chapter shall be paid on account of no more than 10 percent of the statewide enrollment in kindergarten and grades 1 to 12, inclusive, for the then current fiscal year.

- Superintendent's Rules/ Regulations - 10 Percent Statewide Enrollment

Article 8. Low Incidence Funding

- LOW INCIDENCE FUNDING*

56771. (a) Commencing with the 1985-86 fiscal year, and for each fiscal year thereafter, funds to support specialized books, materials, and equipment as required under the individualized education program for each pupil with low incidence disabilities, as defined in Section 56026.5, shall be determined by dividing the total number of pupils with low incidence disabilities in the state, as reported on December 1 of the prior fiscal year, into the annual appropriation provided for this purpose in the Budget Act.

- Funding Formula

(b) The per-pupil entitlement determined pursuant to subdivision (a) shall be multiplied by the number of pupils with low incidence disabilities in each special education local plan area to determine the total funds available for each local plan.

(c) The superintendent shall apportion the amount determined pursuant to subdivision (b) to the responsible local agency in the special education local plan area for purposes of purchasing and coordinating the use of specialized books, materials, and equipment.

- Apportion Funds to Responsible Local Agency

(d) As a condition of receiving these funds, the responsible local agency shall ensure that

- Funding Condition

*(Article Added in 1985)

the appropriate books, materials, and equipment are purchased, that the use of equipment is coordinated as necessary, and that the books, materials, and equipment are reassigned to local educational agencies within the special education local plan area once the agency that originally received the books, materials, and equipment no longer needs them.

(e) It is the intent of the Legislature that special education local plan areas share unused specialized books, materials, and equipment with neighboring special education local plan areas.

- Share Unused Books, Materials, and Equipment

Article 8.5. Licensed Children's Institutions

- LICENSED CHILDREN'S INSTITUTIONS

56775. For the 1980-81 fiscal year and for each fiscal year thereafter, the superintendent shall apportion to each district and county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of contracts with nonpublic, nonsectarian schools to provide special education instruction, related services, or both, to pupils in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities funded under this chapter, and (2) the state and federal income received by the district or county superintendent for providing these progrms. The sum of the excess cost, plus any state or federal income for these programs, shall not exceed the cost of contracts with nonpublic nonsectarian schools to provide special education and related services for these pupils, as determined by the superintendent.

- Excess Cost for Nonpublic* School Placements

56775.5. The Superintendent of Public Instruction may reimburse each district and county office of education providing programs pursuant to Article 5 (commencing with Section 56155 of Chapter 2 for assessment and identification costs for pupils in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities who are placed in state-certified nonpublic, nonsectarian schools.

Actual costs under this section shall not include either administrative or indirect costs, or any proration of support costs.

The total amount reimbursed statewide under this section shall not exceed the amount appropriated for these purposes in any fiscal

- Reimbursement for Assess-** ment - Identification Costs - Nonpublic School Placements

*(Section Amended in 1985)
**(Section Added in 1985)

year. If the superintendent determines that this amount is insufficient to reimburse all claims, the superintendent shall prorate the deficiency among all districts or county offices submitting claims.

- Emergency Fund*

56776. (a) The superintendent shall establish and maintain an emergency fund for the purpose of providing relief to special education local plan areas when a licensed children's institution, foster family home, residential medical facility, or other similar facility serving individuals with exceptional needs opens or expands in a special education local plan area during the course of the school year which impacts the special education local plan area, or when a pupil is placed in a facility for which no public or state-certified nonpublic program exists within the special education local plan area in which the pupil's individualized education program can be implemented during the course of the school year and impacts the educational program.

- Written Request Requirements

(b) The special education local plan area in which the impaction occurs shall be responsible for submitting a written request to the superintendent for emergency instructional personnel units. The written request shall, at a minimum, contain all of the following:

(1) Specific information on the new or expanded licensed children's institution, foster family home, residential medical facility, or other similar facility described in subdivision (a), including information on the new unserved or underserved pupils residing in the facility, or specific information relating to the new unserved or underserved pupils residing in those facilities.

(2) The identification of the steps undertaken demonstrating that no public special education program exists with the special education local plan area capable of programmatically meeting the needs of identified pupils.

(3) A plan from the special education local plan area describing the services to be provided.

(4) A description of the number of emergency instructional personnel service units requested and their specific uses.

- Superintendent Shall Act Within 30 Days

(c) The superintendent shall approve, modify, or disapprove the written request for emergency instructional personnel service units within 30 days of the receipt of the written request and shall notify the special education local plan

*(Section Added in 1985)

area administrator, in writing, of the final decision.

(d) It is the intent of the Legislature that appropriations necessary to fund these emergency instructional personnel service units shall be included in the Budget Act for each fiscal year.

- Permanent Funding* Priority

56777. In the 1986-87 fiscal year and each fiscal year thereafter, the superintendent shall determine the need in that fiscal year for the purposes for which funding was provided in the prior fiscal year pursuant to Section 56776.

If the need still exists in the current fiscal year, the permanent funding of the need shall be the first priority in the allocation of the instructional personnel service units from any appropriation for growth in instructional personnel service units, or from instructional personnel service units that were released by another special education local plan area pursuant to subdivision (a) of Section 56728.6. In the event that permanent funding for these units is not available in the current year, the units shall receive first priority for funding pursuant to Section 56776.

- PROGRAM SPECIALISTS AND REGIONALIZED SERVICES

Article 9. Program Specialists and Regionalized Services

- Regionalized Services**

56780. (a) Funds for regionalized services shall be apportioned to the administrative agency of special education local plan areas. As a condition of receiving funds for regionalized services, the administrative agency shall assure that all functions listed below are performed in accordance with the governance structure of the special education local plan area.

(1) Coordination of the special education local plan area.

(2) Coordinated system of identification and assessment.

(3) Coordinated system of procedural safeguards.

(4) Coordinated system of personnel development.

(5) Coordinated system of curriculum development.

(6) Coordinated system of internal program review.

(7) Coordinated system of data collection and management.

(8) Coordinated system of evaluation of the effectiveness of the local plan.

(9) Coordination of interagency agreements.

*(Section Added in 1985)
**(Section Renumbered and Added in 1985)

(10) Coordination of services to medical facilities.

(11) Coordination of services to licensed children's institutions and foster homes.

(12) Preparation of special education local plan area reports.

(13) Incidental expenses of the community advisory committee.

(14) Coordination of transportation.

(15) Coordination of career and vocational education.

(16) Assurance of full educational opportunity.

(b) Direct instructional support may be provided by program specialists in accordance with Section 56368.

- Formula for 1982-83 and* Thereafter

56781. (a) Commencing with the 1982-83 fiscal year and each fiscal year thereafter, the superintendent shall multiply the average of the unduplicated pupil counts for the fall and spring semesters of the then current fiscal year, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by forty-four dollars ($44), as adjusted pursuant to Section 56782.

- $44 Per Unduplicated Count

- Optional Use of Funds

(b) Funds received pursuant to this section shall be expended only for the following purposes:

(1) Program specialists.

(2) Regionalized services as defined pursuant to subdivision (c) of Section 56220.

(3) Instructional personnel services units in excess of those funded pursuant to Article 2 (commencing with Section 56710) of Chapter 7. Units funded pursuant to this section shall not be considered part of the base number of units funded or operated for any district, county office, or local plan area for the purposes of the growth tests specified in Section 56728.6.

- Regionalized Services* Apportionment

56782. For the 1981-82 fiscal year, and for each fiscal year thereafter, the superintendent shall apportion funds for regionalized services, other than program specialists, as enumerated in subdivision (c) of Section 56220 by multiplying the average of the total unduplicated counts for the fall and spring semesters of the then current fiscal year in the local plan, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by twenty-five ($25).

- $25 Per Unduplicated Count

- Annual Inflation Adjustment** for Program Specialists and Regionalized Services

56783. For fiscal year 1983-84, the amounts per unduplicated pupil provided pursuant to Sections 56781 and 56782 shall be increased by 8

*(Sections Renumbered in 1985)
**(Section Amended and Renumbered in 1985)

percent. Commencing with the 1984-85 fiscal year and in each fiscal year thereafter, the amounts per unduplicated pupil provided pursuant to Sections 56781 and 56782 shall be increased annually by the statewide average percentage inflation adjustment computed for revenue limits of school districts.

Article 10. Deficit Funding

- DEFICIT FUNDING

56790. If available funds are insufficient to permit full apportionments, the deficit shall be applied pursuant to this chapter.

- Insufficient Funds

56791. If state funds are insufficient to fully fund programs, the deficit shall be applied equally to all apportionments to all districts and county offices.

- Deficits Applied Equally to All Apportionments

56792. If programs operated in accordance with a locally approved budget plan submitted pursuant to subdivision (e) of Section 56200 are in excess of those that are funded pursuant to Article 2 (commencing with Section 56710), Article 8 (commencing with Section 56770), and Article 9 (commencing with Section 56780), available funds shall be allocated by the superintendent on a pro-rata basis against all claims for funds by districts and county offices operating under that local plan, unless the plan specifies an alternative allocation mechanism.

- Local Plan Available Funds Allocated on Pro-Rata Basis

Article 12. General Provisions

- GENERAL PROVISIONS

56820. Any facilities constructed or leased after July 1, 1981, for individuals with exceptional needs shall be designed and, if possible, located to achieve maximum possible interaction between individuals with exceptional needs and other pupils.

- Design and Location of Facilities

56821. The department shall include in its budget sufficient funds to make apportionments under this part and an amount sufficient for the administration by the department of the provisions of this part.

- Funds for Apportionments/ Administration

56822. Sound recordings, large type, and braille books purchased, instructional materials transcribed from regular print into special media, and special supplies and equipment purchased for individuals with exceptional needs for which state or federal funds were allowed are property of the state and shall be available for use by individuals with exceptional needs throughout the state as the board shall provide.

- Special Instructional Materials

56823. Apportionments under this part shall be made by the superintendent as early as

- Apportionments Made Early as Practicable

practicable in the fiscal year. Upon order of the superintendent, the State Controller shall draw warrants upon the money appropriated, in favor of the eligible districts or counties in the amounts ordered.

- Comparability of Local Support/Fiscal Effort

56824. Each district special education services region, and county office participating in special education programs under this part shall maintain a fiscal effort with respect to each pupil participating in special education programs that is no less than the fiscal effort of the district or county office per elementary, intermediate, or secondary pupil not participating in a special education program. The department shall annually review individual district and county office expenditures to assure the comparability of local support. This review shall be based on rules and regulations adopted by the board which take into account growth in district enrollment and increases in district costs.

- Monitor and Review by State Department of Education

56825. The department shall continuously monitor and review all special education programs approved under this part to assure that all funds appropriated to districts, special education services regions, and county offices under this part are expended for the purposes intended.

- Funds Expended Exclusively for Special Education Programs

56826. Funds apportioned to districts, special education services regions, and county offices pursuant to this chapter shall be expended exclusively for programs operated under this part.

- State Superintendent Review of Information/ Calculation

56827. The Superintendent of Public Instruction shall, on an ongoing basis, review the information and calculations submitted by districts and county offices in support of all apportionment computations described in this chapter. In particular, the superintendent shall review the unit rates computed pursuant to Article 3 (commencing with Section 56720), the support services amounts computed pursuant to Article 4 (commencing with Section 56730), and the local general fund contribution computed pursuant to Article 6 (commencing with Section 56750) for accuracy and for consistency with this part. The superintendent shall adjust any of these or other factors computed pursuant to this part if subsequent review determines that they are incorrect.

- Adjustments

- Transfer of Programs*

56828. (a) No educational programs already in operation in school districts pursuant to Part 30 (commencing with Section 56000) shall be transferred to the county superintendent of

*(Section Amended in 1985)

schools, or to other school districts, or from the county superintendent of schools to school districts, without approval of the Superintendent of Public Instruction, if the transfer would result in an entitlement to increased state aid pursuant to this chapter.

- State Superintendent Approval

(b) In the event the transfer is approved, the support services amounts and instructional personnel service units amounts for the transferring agencies and county superintendent of schools shall be computed using a weighted average. The Superintendent of Public Instruction shall determine the additional costs to the state, if any, caused by the transfer, and permanently reduce the districts' revenue limits, or the county superintendent's support services entitlement, or both the districts' revenue limits and the county superintendent's support services entitlement, by an amount equal to the additional cost.

- State Superintendent Determines Additional Cost to State

- Reduction of Revenue Limits/ Support Services Entitlement

56829. For the 1981-82 fiscal year and each fiscal year thereafter, if the total amount of state aid for special education claimed by districts and county offices pursuant to this chapter is less than the amount appropriated for those claims, the balance may be used by the Superintendent of Public Instruction to reimburse districts and county offices of education whose expenditures for special education programs and services in the current year exceed the sum of current year revenues from all sources, including state and federal aid for special education district revenue limits for special day classes and centers, county taxes for special education, and an amount equal to the 1979-80 local general fund contribution.

- Appropriations Greater Than Claims

- Use of Balance

The sum of the reimbursement received by districts and county offices pursuant to this section plus the total current year revenues received, including state and federal aid for special education, district revenue limits for special day classes and centers, county taxes for special education, and an amount equal to the 1979-80 local general fund contribution, shall not exceed the actual expenditures of the district or county office for special education programs and services.

- Reimbursement Shall Not Exceed Actual Expenditures

56830. (a) The Legislature hereby finds and declares that, since the 1980-81 fiscal year, there have been significant annual deficiencies in special education funding that have created fiscal hardships for many school districts and county offices of education and adversely

- Annual Deficiencies*

*(Section Added in 1985)

impacted the quality of services to many individuals with exceptional needs, in abrogation of the objectives set forth in Section 56000.

(b) It is the intent of the Legislature that the sum of at least sixty million dollars ($60,000,000) be appropriated in the Budget Act for the 1986-87 fiscal year, and at least one hundred twenty million dollars ($120,000,000) be appropriated in the Budget Act for the 1987-88 fiscal year, in excess of the appropriations and cost-of-living adjustments for the 1985-86 fiscal year, to support programs for individuals with exceptional needs.

- Legislative Intent Regarding Budget Augmentations

(1) Priority for appropriation of these funds in the 1986-87 fiscal year shall be accorded to programs that directly improve special education program quality, including, but not limited to, the restoration of instructional aide time in special day classes for nonseverely handicapped students, and in the resource specialist program to the level originally required by this part; further expansion of infant services and vocational programs; growth in low incidence funds; and additional growth in the number of instructional personnel service units.

- Priorities for 1986-87

(2) Based on the cost accounting information produced pursuant to Section 56730.5, consideration shall also be given in the 1987-88 fiscal year to revision of support services ratios, funding of the local general fund contribution computed pursuant to Section 56751 or 56753, and the expansion of low incidence funding to include specialized services, as appropriate, in addition to specialized materials and equipment.

- 1987-88 Considerations

CHAPTER 8. SPECIAL EDUCATION PROGRAMS FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS RESIDING IN STATE HOSPITALS

- SPECIAL EDUCATION PROGRAMS IN STATE HOSPITALS

56850. The purpose of the Legislature in enacting this chapter is to recognize that individuals with exceptional needs of mandated school age, residing in California's state hospitals for the developmentally disabled and mentally disordered, are entitled to, under Public Law 94-142, the federal Education for All Handicapped Children Act of 1975, and Public Law 93-112, the federal Rehabilitation Act of 1973, the same access to educational programs as is provided for individuals with exceptional needs residing in our communities.

- Legislative Intent

- Equal Access to Educational Programs

It is the intent of the Legislature to ensure that services shall be provided in the community

- Ensure Services in Community

near the individual state hospitals to the maximum extent appropriate, and in the least restrictive environment.

It is the further intent of the Legislature to ensure equal access to the educational process and to a full continuum of educational services for all individuals, regardless of their physical residence.

- Full Continuum of Educational Services

It is the further intent of the Legislature that educational services designated for state hospital residents not eligible for services mandated by Public Law 94-142 shall not be reduced or limited in any manner as a result of the enactment of this chapter.

- No Reduction in Services for Others

It is the further intent of the Legislature that any cooperative agreements to provide educational services for state hospitals shall seek to maximize federal financial participation in funding such services.

- Maximize Federal Funding

56851. (a) In developing the individualized educational program for an individual residing in a state hospital who is eligible for services under Public Law 94-142, a state hospital shall include on its interdisciplinary team a representative of the district, or special education services region, or county office in which the state hospital is located, and the individual's state hospital teacher, depending on whether the state hospital is otherwise working with the district, special education services region, or county office for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education services region that is required by this section to provide a representative from the district or special education services region does not do so, the county office shall provide a representative.

- Representative on Hospital's Interdisciplinary Team

(b) The state hospital shall reimburse the district, special education services region, or the county office, as the case may be, for the costs, including salary, of providing the representative.

- State Hospital Reimburses

(c) Once the individual is enrolled in the community program, the educational agency providing special education shall be responsible for reviewing and revising the individualized education program with the participation of a representative of the state hospital and the parent. The agency responsible for the individualized education program shall be responsible for all individual protections, including notification and due process.

- Reviewing and Revising IEP

56852. In developing the individualized educational program and providing all special education programs and related services to individuals with exceptional needs residing in the state hospitals, the state hospitals shall comply with the requirements of Public Law 94-142, Public Law 93-112, and special education provisions of this part and implementing regulations. Special education and related services shall be provided to each individual residing in a state hospital pursuant to the individualized education program for that individual.

- State Hospital Shall Comply with Federal/ State Laws and Regulations

56852.5. The State Department of Education, within its existing program review process, shall specifically review the appropriateness of pupil placement for educational services as designated in the pupil's individualized education program and the criteria used in determining such placement.

- Department of Education Review Appropriateness

56853. Nothing contained in this chapter shall affect the continued authority of the State Departments of Developmental Services and Mental Health over educational programs for individuals not eligible for services under Public Law 94-142, nor shall it affect the overall responsibility of the state hospitals for the care, treatment, and safety of individuals with exceptional needs under their control. The state hospitals shall continue to render appropriate and necessary developmental services, health related services, psychiatric services, and related services assigned to the state hospitals in the local written agreements, as part of their responsibilities of the care and treatment of state hospital residents.

- Department of Developmental Services/Mental Health Authority/ Responsibility

- State Hospital Services

Health related services shall include services provided by physicians, psychiatrists, psychologists, audiologists, registered nurses, social workers, physical therapists, occupational therapists, psychiatric technicians, and developmental specialists, and shall be the responsibility of the state hospital if the individual with exceptional needs requires these services while in the community program.

- Health Related Services

56854. (a) The Superintendent of Public Instruction and the Directors of the State Departments of Developmental Services and Mental Health shall develop written interagency agreements to carry out the purposes of this chapter.

- State Interagency Agreements

(b) For each county in which a state hospital is located, the county superintendent of schools,

- Local Written Agreements

with the approval of the county board of education and the administrator of the state hospital, shall develop a local written agreement to carry out the purposes of this chapter. Such agreements shall be reviewed and updated annually and may be modified at any time with the concurrence of both parties to the agreements.

- Duty of County Superintendent to Ensure Availability of Services in Community for Which State Hospital Can Contract

56855. For each county in which a state hospital is located the county superintendent of schools shall ensure that appropriate special education and related services are available in the community for which the state hospitals can contract. Such contract shall provide for any eligible individual with exceptional needs residing in the state hospitals whose individualized education program specifies that educational services for that individual should be most appropriately provided, in whole or in part, in a program other than on the hospital grounds. The county board of education shall approve any programs operated by the county superintendent pursuant to this chapter.

- Contracts by Departments of Developmental Services/ Mental Health

56856. In order to provide appropriate special education and related services to an individual residing in a state hospital, the State Departments of Developmental Services and Mental Health shall contract with a county superintendent of schools, nonpublic, nonsectarian school, or other agency to provide all or part of the services that the individual's individualized education program indicates should be provided in a program other than on state hospital grounds. A contract between a state hospital and a nonpublic, nonsectarian school shall only be entered into when no appropriate public education program is available.

- Contracting for Services on State Hospital Grounds

56857. Nothing in this chapter shall preclude the State Departments of Developmental Services and Mental Health from contracting with a local public education agency, a nonpublic, nonsectarian school, or another agency to provide special education and related services on the state hospital grounds for those pupils whose individualized education programs do not indicate that such education and services should be provided in a program other than on state hospital grounds. These contracts shall not involve funds appropriated for purposes of community-based special education.

- 1982-83 Begin Orderly Transfer to Community Schools

56857.5. (a) Commencing with the 1982-83 fiscal year, community school agencies providing school programs on state hospital grounds shall begin the orderly transfer of all state hospital

pupils whose individualized education programs indicate that a community school program is appropriate, to schools located in the community.

(b) Commencing with the 1983-84 fiscal year, all pupils covered by subdivision (a) shall be served in community schools other than on state hospital grounds, and the contracting provisions of this chapter shall apply only to pupils in community school programs other than on state hospital grounds.

- Contracting Provisions Apply Only to Pupils Being Served in Community Schools

(c) Waivers to subdivisions (a) and (b) may be granted only when approved by both the State Superintendent of Public Instruction and the Director of the State Department of Developmental Services.

- Waiver Provision

56858. (a) The State Department of Developmental Services shall, commencing August 1, 1985, and on the first day of each month thereafter, upon submission of an invoice by the county superintendent of schools, pay to the county superintendent of schools 8 percent of the amount projected to cover the cost of hospital pupils education in community school programs.

- Contract Payments*

(b) The amount projected to cover the cost of hospital pupils educated in community school programs shall be determined according to procedures agreed by the State Department of Developmental Services and the State Department of Education.

(c) Upon completion of the fiscal year, the county superintendent of schools shall calculate the actual cost of hospital pupils educated in community schools according to procedures in subdivision (b) approved by the State Department of Developmental Services and the State Department of Education.

(d) If the calculated actual cost of educating these pupils is more or less than the total amount the county superintendent of schools has received for the fiscal year pursuant to subdivision (a), the following year's distribution shall be adjusted accordingly.

(e) The county superintendent of schools shall distribute funds to participating districts on a pro rata basis.

56858.5. (a) Any contract prescribed by this chapter shall become effective unless disapproved by the State Department of Finance or State Department of General Services within 20 working days of receipt of the contract. Each department shall have 10 working days to consider the contract.

- Contract Review by Departments of Finance and General Services

*(Section Repealed and Added in 1985)

(b) Contracts shall be submitted to the State Department of Developmental Services for approval before May 15. - Contract Submittal

(c) No payments shall be processed in advance of contract approval, and no educational services shall be provided in the community school programs in advance of contract approval. - Conditions for Payment

56858.7. (a) Nothing in this chapter shall prohibit the inclusion of in-kind services or the assignment of state hospital personnel in a contract for services pursuant to this chapter. - In-Kind Services

(b) Ten percent of the contract costs shall be attributed to in-kind services. In-kind services above 10 percent of the contract costs shall be mutually agreed upon by both parties to the contract. Any disagreement over in-kind services above 10 percent shall not be cause for delaying approval of the contract. - 10 Percent of Contract Costs

(c) A 60 day prior written notice shall be given by the state hospital to the county superintendent of schools for the initiation or removal of in-kind state hospital classified personnel. - Initiation or Removal of In-Kind Personnel

56859. All certificated state hospital employees hired to provide educational services to individuals of mandated school age after September 29, 1980, shall possess an appropriate California credential in special education. Current certificated state hospital employees who do not possess appropriate California credentials in special education shall be given a period of not more than five years from September 29, 1980, to obtain such appropriate credentials. Certificated state hospital employees who do not possess appropriate California credentials in special education at the end of the five-year period shall be reassigned to provide educational services to individuals residing in state hospitals who are not eligible for services under Public Law 94-142. - Employees Shall Possess Appropriate Credential

56860. Special transportation shall be the responsibility of the state hospital. - Transportation Responsibility

56862. It is not the intent of this chapter to displace educational and related services personnel already employed by the state hospitals under the administration of the State Department of Developmental Services or the State Department of Mental Health, or to reduce their salaries or other employee benefits. - Impact on State Hospital Personnel

The State Department of Developmental Services and the State Department of Mental Health shall complete an annual review of the impact that implementation of this act will have in reducing

the need for positions in state hospitals due to time spent by residents in community education programs and shall submit a report on its findings to the Department of Finance for approval.

56863. The state hospitals, as part of the notification to parents of pupils of their rights pursuant to Public Law 94-142, Public Law 93-112, and this part and implementing regulations, shall notify parents of the right that their child can be considered for education programs other than on state hospital grounds.

- Notification to "Parent of Pupil"

For the purposes of this section, the term "parent of pupil" shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Public Law 94-142.

Information and records concerning state hospital patients in the possession of the Superintendent of Public Instruction shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the Federal Privacy Act of 1974, Public Law 93-579.

- Confidentiality of Records

56864. Individuals with exceptional needs served under this chapter shall not be subject to the service proportions prescribed by Article 7 (commencing with Section 56760) of Chapter 7, or the growth tests prescribed by Section 56728.6.

- Not Subject to Service Proportions

56865. Funds appropriated by Section 11 of Chapter 1191 of the Statutes of 1980 may be used for remodeling classrooms located in a community school, in addition to the purposes of Chapter 25 (commencing with Section 17785) of Part 10, in order to serve state hospital pupils whose individualized education programs require a community school program.

- Remodeling Classrooms

CHAPTER 9. JOINT FUNDING FOR EDUCATION OF HANDICAPPED CHILDREN ACT OF 1980

- JOINT FUNDING FOR EDUCATION OF HANDICAPPED CHILDREN ACT OF 1980

56875. (a) The Legislature hereby finds and declares that numerous federal and state programs make funds available for the provision of education and related services to individuals with exceptional needs. The Legislature further finds and declares that the state has not maximized the use of available federal funds for provision of such services to these children. The Legislature further recognizes the need to simplify procedures for securing all available funds for services to individuals with exceptional needs and for utilizing federal

- Legislative Findings, Declarations and Intent

financial resources to the greatest possible extent.

(b) It is the intent of the Legislature to provide local educational agencies with maximum flexibility to secure and utilize all available state and federal funds so as to enable such agencies to meet the needs of individuals with exceptional needs more effectively and efficiently. Furthermore, it is the intent of the Legislature to provide maximum federal funding to local educational agencies for the provision of education and related services to individuals with exceptional needs.

- Timetable for Implementation of Chapter

56876. On or before April 1, 1981, the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, the Department of the Youth Authority, and the State Council on Developmental Disabilities shall, in conformance with procedures established by the Office of Planning and Research, submit a plan to both the Senate Finance Committee and the Assembly Ways and Means Committee that shall include a timetable for implementation of this chapter, including, but not limited to the following:

(a) A list of provisions of state regulations and laws for which waivers may be granted in order that local educational agencies may maximize available federal funds to provide education and related services to individuals with exceptional needs without decreasing funds available to other state and local agencies.

(b) A list of provisions of federal law, federal regulations, or both, for which it is recommended that the state seek waiver.

(c) A list of specific related services which shall be provided by the respective departments and their political subdivisions to carry out the mandate of Public Law 94-142 and its implementing regulations.

- Implementation of Funding Procedures

56877. (a) Implementation of the funding procedures established pursuant to this chapter shall commence on July 1, 1981.

(b) The State Department of Education shall, in order to implement the provisions of this chapter, do all of the following:

(1) Provide necessary technical assistance to local educational agencies.

(2) Establish procedures for such agencies to obtain available federal funds.

(3) Apply for necessary waivers of federal statutes and regulations governing federal education programs that provide education and related services to individuals with exceptional needs.

(c) The State Board of Education shall grant necessary waivers of applicable state laws and administrative regulations relating to special education programs to participating local educational agencies.

- Waivers of State Laws/ Regulations

56878. If necessary to simplify procedures for securing all available funds for services to individuals with exceptional needs and for utilizing federal financial resources to the greatest possible extent, the Health and Welfare Agency, at the request of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, or the Employment Development Department; and the Youth and Adult Corrections Agency, at the request of the Department of the Youth Authority, may grant waivers of state laws and regulations for which they have administrative responsibility. Waivers granted pursuant to this section may be only for those laws and regulations identified in the plan submitted to the Legislature pursuant to Section 56876, and only when necessary to implement this part.

- Duties of State Agencies

56879. Based upon the plan submitted pursuant to Section 56876, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, and the Department of the Youth Authority shall, in order to implement the provision of this chapter, do the following:

(1) Grant necessary waivers of applicable state laws and administrative regulations under their respective jurisdictions to local educational agencies and other agencies, and issue such other administrative regulations as are necessary.

(2) Apply for necessary waivers of federal statutes and regulations governing federal programs which provide services to individuals with exceptional needs and which are under their respective jurisdictions.

- Evaluation of Funding Procedures by Department of Finance

56880. (a) The Department of Finance shall evaluate the funding procedures established pursuant to this chapter.

(b) Such evaluation shall examine the implementation, effectiveness, and financial

benefits of the funding procedures and shall include, but not be limited to, an examination of all the following:

(1) The availability to individuals with exceptional needs of education and related services provided by public and private agencies.

(2) The amount of federal funds utilized to provide education and related services to individuals with exceptional needs and the increase in the proportion of federal funds utilized by participating local educational agencies to provide such services to individuals with exceptional needs.

(3) The effect of the funding procedures established pursuant to this chapter on the amount of total federal funds received by the state to provide human services.

(c) The scope, content, and methodology of the evaluation shall be submitted for review to the Joint Legislative Budget Committee.

(d) A preliminary evaluation shall be submitted to the Legislature no later than January 1, 1982; an interim evaluation no later than January 1, 1983; and a final evaluation no later than January 1, 1984.

- Governor's Office of Planning and Research Responsible for Development and Review of State Agency Plans for Funds Available Under Federal Programs

56881. (a) The Office of Planning and Research shall establish procedures for development and review of state agency plans for funds available under all federal programs which may provide services to individuals with exceptional needs and which are within the jurisdictions of the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, the Department of the Youth Authority, and the State Council on Developmental Disabilities. Results of the review shall be transmitted to the state agency preparing the plan and to the responsible cabinet level agency to make a determination if the plan shall be changed. Such planning procedures and review shall assure coordination between state agencies and shall assure that applicable plans enable local education agencies to secure maximum available federal funding, without decreasing funds available to other state and local agencies, under each of the following federal programs:

(1) Education for All Handicapped Children as provided under P.L. 91-230, Education of the

Handicapped Act, Title VI, Part B, as amended by P.L. 93-380 and by P.L. 94-142.

(2) Medical Assistance (Medicaid), as provided under the Social Security Act of 1935, Title XIX, as amended.

(3) Early and Periodic Screening, Diagnosis and Treatment as provided under P.L. 74-271, Social Security Act of 1935, Title XIX as amended, Section 1905 (a)(4)(B).

(4) Developmental Disabilities Services as provided under P.L. 91-517, the Developmental Disabilities Services and Construction Act of 1970, as amended by P.L. 94-103 and the Developmental Disabilities Assistance and Bill of Rights Act, as amended by P.L. 95-602, Amendments to the Rehabilitation Act of 1973.

(5) Social Services as provided under P.L. 74-271, Social Security Act of 1935, Title XX, as amended by P.L. 93-647, P.L. 94-401, P.L. 94-566, and P.L. 95-171.

(6) Crippled Children's Services as provided under P.L. 74-271, Social Security Act of 1935, Title V, Section 504, as amended.

(7) Vocational Training and Counseling Services as provided under P.L. 94-482, Vocational Educational Act; P.L. 93-112, as amended by P.L. 93-516, the Rehabilitation Act of 1973; and P.L. 93-203, the Comprehensive Employment and Training Act, as amended.

(8) Maternal and Child Health Services, as provided under P.L. 74-271, Social Security Act of 1935, Title V, Section 503, as amended.

(9) Supplementary Security Income, Disabled Children's Program, as provided under P.L. 74-271, Social Security Act of 1935, Title XVI, Section 1615(b) as amended by P.L. 94-566.

(b) In addition to the programs enumerated in subdivision (a), any other programs under which the following services may be provided to individuals with exceptional needs shall be subject to the review procedure specified in subdivision (a) as conducted by the Office of Planning and Research.

(1) Screening and identification.

(2) Assessment and diagnosis.

(3) Health related services, including, but not limited to, speech pathology and audiological services, physical therapy, occupational therapy, and vision services and therapy.

(4) Psychological counseling.

(5) Mental health services.

(6) Vocationally related services.

(7) Social services.

(8) Transportation services.

(9) Other services necessary to assist individuals with exceptional needs in benefiting from their education.

- State Board of Education Issue Regulations for Local Educational Agencies

56882. On or before May 1, 1981, the State Board of Education shall, after consultation with the Office of Planning and Research and all state agencies listed in Section 56876, issue regulations for implementation of the provisions of this chapter, to be used by local educational agencies, in implementing the provisions of this chapter. Such regulations shall identify all other administrative regulations relating to education and related services which shall be waived for local educational agencies. Such regulations shall include, but not be limited to regulations relating to application, accounting, and reporting procedures for programs which may provide education and related services for individuals with exceptional needs.

- Department of Education Issue Guidelines to Local Educational Agencies

56883. (a) On or before July 1, 1981, the Department of Education shall, after consultation with the Office of Planning and Research and the agencies listed in Section 56876, and based upon the plan required in Section 56876, issue guidelines to local educational agencies, for implementation of the provisions of this chapter.

(b) Such guidelines shall include, but not be limited to, the following:

(1) Identification of sources of funds available under all state and federal programs which may provide education and related services to individuals with exceptional needs and for which local educational agencies and other applicable agencies are eligible.

(2) Identification of all statutes and regulations applicable to programs for individuals with exceptional needs under the jurisdictions of the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, and the Department of the Youth Authority, which may be waived pursuant to subdivisions (b), (c), and (d) of Section 56877.

- State Interagency Agreements

56884. To assist in implementation of the provisions of this chapter, the Department of Education and state agencies listed in Section 56876 shall, by April 1, 1981, after consultation with representatives of their respective local

administering agencies, negotiate and enter into interagency agreements to help promote coordination of services for individuals with exceptional needs. The interagency agreements shall include, but not be limited to, the definition of each agency's roles and responsibilities for serving individuals with exceptional needs.

- Definition of Each Agency's Roles and Responsibilities for Serving Individuals with Exceptional Needs

56885. The Department of Finance shall, after consultation with appropriate state agencies ascertain the amounts of funds, if any, that should be transferred between state agencies in order to achieve the purposes of the bill and shall notify the Joint Legislative Budget Committee, the Senate Education Committee, and the Assembly Education Committee of such amounts pursuant to the Budget Act.

- Amounts of Funds to be Transferred Between State Agencies

Any savings that may occur to any program due to maximized use of federal funds or services to individuals with exceptional needs as provided in this article shall be utilized to defer projected increased costs to meet full mandates of Public Law 94-142.

- Savings Used to Defer Increased Costs of PL 94-142

SELECTED PROVISIONS NOT INCLUDED IN PART 30

COMMISSION ON SPECIAL EDUCATION

(Education Code - Part 20)

ARTICLE 6. ADVISORY COMMISSION ON SPECIAL EDUCATION

- ADVISORY COMMISSION ON SPECIAL EDUCATION

33590. (a) There is in the state government the Advisory Commission on Special Education consisting of:

- Creation and Membership

(1) A Member of the Assembly appointed by the Speaker of the Assembly.

(2) A Member of the Senate appointed by the Senate Committee on Rules.

(3) Three public members appointed by the Speaker of the Assembly, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(4) Three public members appointed by the Senate Committee on Rules, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(5) Four public members appointed by the Governor, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(6) Five public members appointed by the State Board of Education, upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(b) The commission membership shall be selected to ensure a representative group knowledgeable about the wide variety of handicapping conditions which require special programs in order to achieve the goal of providing an appropriate education to all eligible pupils. - Representative Group

(c) On January 1, 1984, the appointing powers listed in subdivision (a) shall terminate the appointment of the public members appointed before that date and shall make appointments pursuant to subdivisions (a), (b), and (d).

(d) The term of each public member shall be for four years. However, the members appointed on January 1, 1984, shall be appointed on the following basis: - Four Year Terms

(1) Of the public members appointed by the Speaker of the Assembly, two shall hold office for four years, one shall hold office for two years.

(2) Of the public members appointed by the Senate Committee on Rules, two shall hold office for four years, one shall hold office for two years.

(3) Of the public members appointed by the Governor, two shall hold office for four years, two shall hold office for two years.

(4) Of the public members appointed by the State Board of Education, three shall hold office for four years, two shall hold office for two years.

(e) In no event shall any public member serve more than two terms.

33591. The Members of the Legislature appointed to the commission pursuant to Section 33590 shall have the powers and duties of a joint legislative committee on the subject of special education and shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature. - Members of Legislature

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power.

33592. The members of the commission shall serve without compensation, except they shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses. - Compensation

Reimbursement of other expenses, which are determined to be necessary for the commission to function, but do not exceed the commission's budget, may be approved by the commission and the executive secretary to the commission.

33593. The Superintendent of Public Instruction or his representative shall serve as executive secretary to the commission. - Executive Secretary

33594. The commission shall select one of its members to be chairman of the commission. - Chair

33595. (a) The commission shall study and provide assistance and advice to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor in new or continuing areas of research, program development, and evaluation in special education. - Study, Assist, and Advise*

(b) The commission shall report to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor not less than once a year on the following: - Reporting Responsibilities

(1) Activities necessary to be undertaken regarding special education for individuals with exceptional needs which are enumerated in Section 56100.

(2) The priorities and procedures utilized in the distribution of federal and state funds.

(3) The unmet educational needs of individuals with exceptional needs within the state.

(4) Recommendations relating to providing better educational services to individuals with exceptional needs including, but not limited to, the development, review, and revision of the definition of "appropriate," as that term is used in the phrase "free appropriate public education," as used in Public Law 94-142.

(c) Commission recommendations or requests shall be transmitted by letter from the commission chairperson to the president of the State Board of Education. Each communication shall be placed on the agenda of the next forthcoming state board meeting in accordance with the announced annual state board agenda cutoff dates. Following the state board meeting, the commission shall be notified by the state - Recommendations and Requests

*(Section Amended in 1985)

board as to what action has been taken on each recommendation or request. Commission recommendations or requests shall also be transmitted by letter from the commission chairperson to the Superintendent of Public Instruction, the Governor, and to appropriate members of the Legislature.

33596. As used in this article, "commission" means the Advisory Commission on Special Education.

- Definition

62006.7. (a) Notwithstanding subdivision (f) of Section 62006 and Section 62006.5, no temporary advisory committee on special education shall be established for the purposes of reviewing and reporting on special education as required by this chapter.

(b) In place of a temporary advisory committee on special education, the Legislature hereby designates the Advisory Commission on Special Education, established pursuant to Section 33590, to fulfill the requirements of subdivision (f) of Section 62006.

(c) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

- Sunset Review* of Special Education by Commission on Special Education

TRANSPORTATION CONSOLIDATION

(Education Code - Part 24)

(As Amended by SB 1264, Chapter 1603, Statutes of 1985; AB 982, Chapter 1546, Statutes of 1985; and SB 734, Chapter 1326, Statutes of 1985)

Article 10. Allowances for Transportation

41850. (a) Apportionments made pursuant to this article shall only be made for transportation, as defined in this section.

(b) As used in this article, "transportation" includes all of the following:

- Transportation Definition**

(1) The transportation of pupils between their homes and the regular full-time day school they attend, as provided by a school district or county superintendent of schools.

(2) The payment of moneys by a school district or county superintendent of schools to parents or guardians of pupils made in lieu of providing for the transportation of pupils between their homes

*(Section Added in 1985)
**(Section Amended in 1985)

and the regular full-time day schools they attend.

(3) Providing board and lodging to pupils by a school district or county superintendent of schools made in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools they attend.

(4) The transportation of pupils between the regular full-time day schools they would attend and the regular full-time occupational training classes they attend, as provided by a regional occupational center or program.

(c) For purposes of this article, the computation of the allowances provided to a regional occupational center or program shall be subject to all of the following: - ROC/P Computation

(1) A regional occupational center or program shall receive no allowance for 50 percent of the total transportation costs.

(2) A regional occupational center or program shall be eligible for a transportation allowance only if the total transportation costs exceed 10 percent of the total operational budget of the regional occupational center or program.

(3) A regional occupational center or program eligible for a transportation allowance pursuant to paragraph (2) shall receive an amount equal to one-third of the transportation costs subject to reimbursement.

(d) As used in this article, "transportation" includes the transportation of individuals with exceptional needs, as specified in their individualized education program. - Transportation of Individuals with Exceptional Needs

41851. (a) For the 1984-85 fiscal year and each fiscal year thereafter, from Section A of the State School Fund the Superintendent of Public Instruction shall apportion to each school district and county superintendent of schools which received a transportation allowance in the prior fiscal year, an amount computed pursuant to this section. School districts and county superintendents of schools which provide transportation services by means of a joint powers agreement, a cooperative pupil transportation program, or a consortium shall receive transportation allowances pursuant to this section. - Apportionment Computation *

(b) Any school district or county superintendent which certifies to the Superintendent of Public Instruction at the end a fiscal year that its approved transportation expenditures for that fiscal year were at least 95 percent of the state allowance received in

*(Section Amended in 1985)

that fiscal year for the prior fiscal year's approved transportation costs shall receive a transportation allowance for the current fiscal year equal to the amount of the transportation allowance received in the prior fiscal year, increased by the amount provided in the Budget Act.

(c) Any school district or county superintendent which certifies at the end of a fiscal year that its approved transportation expenditures for fiscal year were less than 95 percent of the state allowance received in that fiscal year for the prior fiscal year's approved transportation costs shall certify the applicable percentage and shall receive a transportation allowance for the current fiscal year equal to the certified percentage of the transportation allowance received in that fiscal year plus 5 percent, the sum increased by the amount provided in the Budget Act.

- Transfer of Transportation Services

(d) For the purpose of receiving an allowance pursuant to this section, a school district, county superintendent, or joint powers agency which transfers any part of its pupil transportation service to another entity shall report to the Superintendent of Public Instruction the proportion of the costs in the fiscal year prior to the transfer that are attributable to the part of the service transferred. In determining the allowance for the fiscal years subsequent to the transfer, the Superintendent of Public Instruction, prior to the application of any cost-of-living adjustment, shall reduce the allowance of the entity transferring the service in proportion to the costs reported, and, if appropriate, increase or establish the allowance of the entity assuming the transferred service by that amount.

- Revisions to Expenditure Reports

(e) For the 1985-86 fiscal year, and each fiscal year thereafter, for purposes of this section and Section 42238, the state allowance received in any fiscal year shall not include revisions to expenditure reports or other documents, schedules, or reports that are used in determining state apportionments pursuant to this section, submitted by a school district for any prior year apportionment, and received by the Superintendent of Public Instruction after June 30, 1985, that would result in a change in the adjustment to the districts's revenue limit calculated pursuant to subdivision (a) or (b) of Section 42241.4 as those provisions read in the 1982-83 or 1983-84 fiscal year.

(f) For the 1985-86 fiscal year and each fiscal year thereafter, for purposes of this section and Section 42238, the state allowance received in any fiscal year shall not include revisions to expenditure reports or other documents, schedules, or reports that are used in determining state apportionments pursuant to this section, submitted by a school district for any prior fiscal year apportionment, and received by the Superintendent of Public Instruction after June 30, 1985, that would result in a change in the adjustment to the district's revenue limit calculated pursuant to subdivision (e) of Section 42241.

- Shall Not Include Revisions to Expenditure Reports

(g) For the 1985-86 fiscal year and each fiscal year thereafter, for purposes of this section, the state allowance received in any fiscal year shall not include revisions to transportation reports or other documents, schedules, or reports that are used in determining state apportionments pursuant to Article 8 (commencing with Section 56770) of Chapter 7 of Part 30, submitted by a school district or county superintendent of schools for the 1981-82, 1982-83, or 1983-84 fiscal year apportionment, and received by the Superintendent of Public Instruction after June 30, 1985, for the purpose of other than home-to-school transportation of individuals with exceptional needs as specified in their individualized education plan, that would result in an increase in the district's or county superintendent of schools' state allowance pursuant to this section.

- Shall Not Include Revisions to Transportation Reports

(h) Commencing in the 1985-86 fiscal year, all revisions to prior fiscal year expenditure reports and any other documents, schedules, or reports that are used in determining state allowances pursuant to this section, submitted by a school district or county office of education for purposes of receiving apportionments pursuant to this section, and received by the Superintendent of Public Instruction after June 30, 1985, shall be accompanied by a statement signed by the independent auditor of the school district or county office of education which certifies that the revisions are corrections of errors contained in a document, schedule, or report previously submitted to the Superintendent of Public Instruction, and that the information contained in the revised document, schedule, or report is true and accurate.

- Independent Auditor Statement

41851.5. As used in this article, "approved transportation costs" includes replacement of

- Replacement of Buses

buses used by a school district or county superintendent of schools to provide transportation services.

41852. Any school district or county superintendent of schools which receives a transportation allowance in the 1984-85 fiscal year, or any fiscal year thereafter, shall establish a restricted home-to-school transportation account within its general fund. The district or county superintendent shall deposit in the restricted home-to-school transportation account all transportation apportionments received pursuant to this article in any fiscal year and any other funds at the option of the district or county superintendent. Any funds remaining in the restricted home-to-school transportation account at the end of the fiscal year may remain in the restricted home-to-school transportation account for expenditure in subsequent fiscal years or may be transferred to the pupil transportation equipment fund.

- Transportation Account

(b) Any school district or county superintendent of schools may establish a pupil transportation equipment fund. The fund shall receive all state and local funds designated for acquisition, rehabilitation, or replacement of pupil transportation equipment. Funds deposited in the pupil transportation equipment fund shall be used exclusively for acquisition, rehabilitation and replacement of pupil transportation equipment, except as provided in Section 51853.

- Equipment Fund

41853. If a school district or county superintendent of schools decides to discontinue its transportation services, any unencumbered funds remaining in the restricted home-to-school transportation account after transportation services are discontinued shall be transferred to the general fund of the district or county superintendent.

- Discontinuing Transporta-* tion Services

In the fiscal year in which the funds are transferred, the Superintendent of Public Instruction shall reduce the state apportionment pursuant to Section 2558 or 42238 to the district or county superintendent by the amount of the funds transferred from the restricted home-to-school transportation account to the general fund of the district or county superintendent.

41853.3. (a) On or before February 1, 1986, the Antelope Valley Schools Transportation Agency may request that it be deemed to be a single entity for purposes of receiving transportation allowances pursuant to this article and, if the

- Single Entity **

*(Section Amended in 1985)
**(Section Added in 1985)

single entity status is requested, shall cause a notice of the joint powers agreement to be prepared and filed with the Superintendent of Public Instruction. The notice shall include all information required for that notice prescribed by Section 6503.5 of the Government Code.

(b) Upon receipt of the notification described in subdivision (a), state verification of the joint powers agreement, and the consent of each participating agency, the Superintendent of Public Instruction shall authorize the Los Angeles County Office of Education to file consolidated reports and other documents required by this section and emergency rules and regulations prescribed by the superintendent for purposes of receiving transportation allowances for pupil transportation services provided by the Antelope Valley Schools Transportation Agency. The consolidated pupil transportation allowances for the Antelope Valley Schools Transportation Agency shall be apportioned to the Los Angeles County Office of Education until such time as the joint powers agreement executed pursuant to Chapter 5 (commencing with Section 6500 of Division 7 of Title I of the Government Code is terminated, or until one or more of the participating entities rescinds its consent.

Notwithstanding any other provision of law, the Superintendent of Public Instruction shall adopt emergency rules and regulations in order to implement the provisions of this section. The adopted regulations shall be filed with the Secretary of State as emergency regulations.

(c) The Antelope Valley Schools Transportation Agency shall operate under the requirements of Chapter 5 (commencing with Section 6500) of Division 7 of Title I of the Government Code and shall be subject to the same restrictions as are applicable to school districts under that chapter, including the preparation of budget and financial statements required by Article 1 (commencing with Section 42100) and Article 2 (commencing with Section 42120) of Chapter 6 of Part 24; the accounting and auditing requirements prescribed by Article 1 (commencing with Section 41000) and Article 2 (commencing with Section 41010) of Chapter 1 of Part 24; and the expenditure and appropriation controls prescribed by Chapter 9 (commencing with Section 42600 of Part 24.

(d) The Antelope Valley Schools Transportation Agency shall annually report to its participating school districts, on forms designated for that

purpose by the Superintendent of Public Instruction, any information deemed necessary by the superintendent.

(e) Changes in the membership of the Antelope Valley Schools Transportation Agency shall be approved in accordance with the transportation agency joint powers agreement, or by amendment to that agreement by the transportation agency governing board. The transportation agency and educational entities requesting any change shall notify the superintendent on or before May 1 preceding the beginning of the fiscal year.

(f) For purposes of Section 41851 of the Education Code, the home-to-school transportation aid received by the Antelope Valley Schools Transportation Agency in the 1985-86 fiscal year and each fiscal year thereafter shall be computed as if the home-to-school transportation aid received by the transportation agency in the 1984-85 fiscal year was one million eight hundred thirty thousand seven hundred three dollars ($1,830,703).

(g) The Legislature hereby recognizes that the use of a joint powers agreement by the Antelope Valley Schools Transportation Agency for the purpose of receiving apportionments under Section 41851 of the Education Code is a new concept which requires evaluation prior to approval for use in other areas of the state. On or before January 1, 1988, the State Department of Education, the Department of Finance, the Los Angeles County Office of Education, and the Controller shall conduct an evaluation of the Antelope Valley Schools Transportation Agency and submit recommendations to the Legislature regarding the use of joint powers agreements for these purposes prior to any extension of this authorization for other agreements.

41854. This article shall become operative July 1, 1984. - Operative Date

REVENUE LIMITS FOR PUPILS IN SPECIAL CLASSES AND CENTERS

(Education Code - Part 24)

(AB 70 - Chapter 1302, Statutes of 1983)

42238.9. The amount per unit of average daily attendance subtracted pursuant to Section 56712 for revenue limits for pupils in special classes and centers shall be the district's total revenue - Revenue Limits

limit for the current fiscal year computed pursuant to Section 42238, including funds received pursuant to Article 4 (commencing with Section 42280), but excluding funds received pursuant to Section 42238.7, 42238.8 and 45023.4, divided by the district's current year average daily attendance pursuant to Section 42238.5.

REAPPROPRIATION OF PL 94-142 FUNDS

(Education Code - Part 24)

(AB 70 - Chapter 1302, Statutes of 1983)

- Unexpended Federal Funds

42242. The Superintendent of Public Instruction shall determine at the time of each apportionment the proposed receipts and expenditures of funds under the provisions of Public Law 94-142. In the event that the proposed distribution of funds results in funds not being expended, those funds are hereby reappropriated for reallocation for local entitlements for special education.

This section shall become operative July 1, 1984.

CERTIFICATED EMPLOYEE EMPLOYMENT RIGHTS

(Education Code - Part 25)

(As Amended by SB 1345 -
Chapter 1201, Statutes of 1982)

44903.7. When a local plan for the education of individuals with exceptional needs is developed pursuant to Article 6 (commencing with Section 56170) of Chapter 2 of Part 30, the following provisions shall apply:

- Employee Entitlements

(a) Whenever any certificated employee, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes an employee of another employer because of the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, the employee shall be entitled to the following:

- Retain Seniority Rights

(1) The employee shall retain the seniority date of his or her employment with the district or county office from which he or she was terminated, reassigned, or transferred, in accordance with Section 44847. In the case of termination, permanent employees shall retain the

rights specified in Section 44956 or, in the case of probationary employees, Section 44957 and 44958, with the district or county office initiating the termination pursuant to Section 44955.

(2) The reassignment, transfer, or new employment caused by the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, shall not affect the seniority or classification of certificated employees already attained in any school district which undergoes such reorganization. These employees shall have the same status with respect to their seniority or classification, with the new employer, including time served as probationary employees. The total number of years served as a certificated employee with the former district or county office shall be credited, year for year, for placement on the salary schedule of the new district or county office.

- Not Affect Seniority of Classification

(b) All certificated employees providing service to individuals with exceptional needs shall be employed by a county office of education or an individual school district. Special education service regions or responsible local agencies resulting from local plans for the education of individuals with exceptional needs formulated in accordance with Part 30 shall not be considered employers of certificated personnel for purposes of this section.

- Employers

(c) Subsequent to the reassignment or transfer of any certificated employee as a result of the reorganization of special education programs, pursuant to Chapter 797 of the Statutes of 1980, that employee shall have priority, except as provided in subdivision (d), in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the district or county office by which the certificated employee is then currently employed. This priority shall expire 24 months after the date of reassignment or transfer, and may be waived by the employee during that time period.

- Priority on Being Informed/ Filling Positions

(d) A certificated employee who has served as a special education teacher in a district or county office and has been terminated from his or her employment by that district or county office pursuant to Section 44955, shall have first priority in being informed of and in filling vacant certificated positions in special education, for which the employee is certificated

- Other County Office/ School District

and was employed, in any other county office or school district which provides the same type of special education programs and services for the pupils previously served by the terminated employee. For a period of 39 months for permanent employees and 24 months for probationary employees from the date of termination, the employee shall have the first priority right to reappointment as provided in this section, if the employee has not attained the age of 65 years before reappointment.

LONGER DAY-YEAR FOR COUNTY OPERATED SPECIAL EDUCATION PROGRAMS

(Education Code - Part 26)

(As Added by AB 2557 - Chapter 115, Statutes of 1985, As Amended by SB 1264 - Chapter 1603, Statutes of 1985)

- 180 Days or More

46200.5. (a) In the 1985-86 fiscal year, for each county office of education that certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year of special day classes pursuant to Section 56364, the Superintendent of Public Instruction shall determine an amount equal to seventy dollars ($70) per unit of current year second principal apportionment average daily attendance for special day classes. This computation shall be included in computations made by the superintendent pursuant to Article 2 (commencing with Section 56710) of Chapter 7 of Part 30.

- Less Than 180 Days

(b) For any county office of education that received an apportionment pursuant to subdivision (a), that offers less than 180 days of instruction in the 1986-87 year or any fiscal year thereafter, and that does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201.5 for that fiscal year, the Superintendent of Public Instruction shall reduce the special education apportionment per unit of average daily attendance for that fiscal year by an amount attributable to the increase received pursuant to subdivision (a), as adjusted in fiscal years subsequent to the 1985-86 fiscal year.

- Computation for Special Classes

46201.5. (a) In each of the 1985-86 and 1986-87 fiscal years, for each county office of education that certifies to the Superintendent of Public Instruction that, for special day classes

pursuant to Section 56364, it offers at least the amount of instructional time specified in this subdivision, the Superintendent of Public Instruction shall determine an amount equal to eighty dollars ($80) in the 1985-86 fiscal year and forty dollars ($40) in the 1986-87 fiscal year per unit of current year second principal apportionment average daily attendance for special day classes in kindergarten and grades 1 to 8 inclusive, and one hundred sixty dollars ($160) in the 1985-86 fiscal year and eighty dollars ($80) in the 1986-87 fiscal year per unit of current year second principal apportionment average daily attendance for special day classes in grades 9 to 12, inclusive.

This computation shall be included in computations made by the superintendent pursuant to Article 2 (commencing with Section 56710) of Chapter 7 of Part 30.

(1) In the 1985-86 fiscal year:

(A) 34,500 minutes in kindergarten.

(B) 47,016 minutes in grades 1 to 3, inclusive.

(C) 50,000 minutes in grades 4 to 8, inclusive.

(D) 57,200 minutes in grades 9 to 12, inclusive.

(2) In the 1986-87 fiscal year:

(A) 36,000 minutes in kindergarten.

(B) 50,400 minutes in grades 1 to 3, inclusive.

(C) 54,000 minutes in grades 4 to 8, inclusive.

(D) 64,800 minutes in grades 9 to 12, inclusive.

- Add to Base Apportionment

(b) Each county office of education that receives an apportionment pursuant to subdivision (a) in a fiscal year shall, in the subsequent year, add the amount received per pupil to the county office's base special education apportionment.

- Reduction of Apportionment When Instructional Time Is Reduced

(c) For each county office of education that receives an apportionment pursuant to subdivision (a) in the 1985-86 fiscal year, and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1986-87 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the special education apportionment for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986-87 fiscal year special education apportionment

pursuant to subdivision (b), as adjusted in the 1986-87 fiscal year and fiscal years thereafter.

For each county office of education that receives an apportionment pursuant to subdivision (a) in the 1986-87 fiscal year, and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1987-88 fiscal year, or any fiscal year thereafter, the superintendent shall reduce the special education apportionment for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987-88 fiscal year special education apportionment pursuant to subdivision (b), as adjusted in the 1987-88 fiscal year and fiscal years thereafter.

SUSPENSION/EXPULSION OF HANDICAPPED PUPILS

(Education Code - Part 27)

As Amended by AB 343 - Chapter 318, Statutes of 1985 and SB 1260 - Chapter 907, Statutes of 1985)

48900. A pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has:

- Grounds for Suspension* or Expulsion

(a) Caused, attempted to cause, or threatened to cause physical injury to another person.

(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise

*(Section Amended in 1985)

furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, except as provided in Section 48901.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11364 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

No pupil shall be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

- Suspension: Equal Treatment* of Handicapped and Non-handicapped Pupils

48900.5. Suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a

*(Section Amended in 1985)

danger to persons or property or threatens to disrupt the instructional process.

48911.5. The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Section 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911.

- Nonpublic School Principal*

48915. (a) The principal or the superintendent of schools shall recommend a pupil's expulsion for any of the following acts, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:

- Expulsion: Particular** Circumstances

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any firearm, knife, explosive, or other dangerous object of no reasonable use to the pupil at school or at a school activity off school grounds.

(3) Unlawful sale of any controlled substance, as defined in Section 11007 of the Health and Safety Code, except for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48919, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900.

(c) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48919, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (f), (g), (h), (i), (j), (k), or (l) of Section 48900 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

*(Section Added in 1985)
**(Section Amended in 1985)

48915.5 (a) In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivisions (b) and (c) of Section 48915 only if all of the following conditions are met:

- Expulsion Conditions for* Handicapped Pupils

(1) An individualized education program team meeting is held and conducted pursuant to Article 3 (commencing with Section 56340) of Chapter 2 of Part 30.

(2) The team determines that the misconduct was not caused by, or was not a direct manifestation of, the pupil's identified handicap.

(3) The team determines that the pupil had been appropriately placed at the time the misconduct occurred.

The term "pupil with previously identified exceptional needs," as used in this section, means a pupil who meets the requirements of Section 56026 and who, at the time the alleged misconduct occurred, was enrolled in a special education program, including enrollment in nonpublic schools pursuant to Section 56365 and state special schools.

(b) For purposes of this section, all applicable procedural safeguards prescribed by federal and state law and regulations apply to proceedings to expel pupils with previously identified exceptional needs, except that, notwithstanding any other provision of law, parental consent is not required as a condition for expulsion proceedings or the decision to expel.

- Procedural Safeguards

(c) Each local education agency, pursuant to the requirements of Section 56221, shall develop procedures and time lines governing expulsion procedures for individuals with exceptional needs.

- Expulsion Procedures and Time Lines

(d) The parent of each pupil with previously identified exceptional needs has the right to participate in the individualized education program team meeting conducted pursuant to subdivision (a) preceding the commencement of expulsion proceedings through actual participation, representation, or a conference call. Each parent shall be notified of his or her right to participate in the meeting at least 48 hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent's participation, if the notice required by this subdivision has been provided. Each parent may request that the

- Parent Rights

*(Section Added in 1985)

meeting be postponed for up to three additional school days. In the event that a postponement has been granted, the local educational agency may extend any suspension of a pupil for the period of postponement.

(e) In determining whether a pupil should be expelled, the individualized education program team shall base its decision on recent and relevant information regarding the pupil.

- Recent and Relevant Information

The term "recent," as used in this subdivision, means information that has been acquired within three years of the date of the alleged misconduct.

The term "relevant information," as used in this subdivision, means all of the following:

(1) A review of the pupil's school progress and behavior, if available, including, but not limited to, a review of the pupil's individualized education program, teacher progress reports and comments, school health records, and school discipline records.

(2) A review of the ability of the pupil to conform his or her behavior to the prescribed standards, and a determination of the relationship, if any, between the pupil's behavior and his or her handicapping condition.

(f) If the individualized education program team determines that the alleged misconduct was not caused by, or a direct manifestation of, the pupil's handicapping condition, and if it is determined that the pupil was appropriately placed, the pupil shall be subject to the applicable disciplinary actions and procedures prescribed under this article.

- Alleged Misconduct Not Caused by, or Manifested by, Handicap

(g) The parent of each pupil with previously identified exceptional needs has the right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States Code if the parent disagrees with the decision of the individualized education program team made pursuant to subdivision (f), or if the parent disagrees with the decision to rely upon information obtained, or proposed to be obtained, pursuant to subdivision (e).

- Parent's Right to Due Process Hearing

The State Board of Education shall adopt regulations to ensure that hearings for the expulsion of pupils with previously identified exceptional needs are conducted in a more timely manner than those conducted for other pupils under Chapter 5 (commencing with Section 56500) of Part 30.

In the event that a parent demands a hearing under this subdivision, all time requirements

prescribed in this article for suspension or expulsion shall be extended to include the time necessary to conclude the review or appeal of any assessment or determination.

(See Other Provisions of Article 1, Chapter 6, Part 27 of the Education Code for Additional Information on Pupil Suspension and Expulsion.)

SPECIALIZED PHYSICAL HEALTH CARE SERVICES

(Education Code - Part 27)

(AB 3477 - Chapter 1220, Statutes of 1978)

49423.5. (a) Notwithstanding the provisions of Section 49422, any individual with exceptional needs who requires specialized physical health care services, during the regular schoolday, may be assisted by the following individuals:

- Qualifications of Service Providers

(1) Qualified persons who possess an appropriate credential issued pursuant to Section 44267, or hold a valid certificate of public health nursing issued by the State Department of Health Services; or

(2) Qualified designated school personnel trained in the administration of specialized physical health care provided they perform such services under the supervision of a school nurse, public health nurse, or licensed physician and surgeon.

(b) Specialized health care or other services that require medically related training shall be provided pursuant to the procedures prescribed by Section 49423.

- Medically Related Training

(c) Persons providing specialized physical health care services shall also demonstrate competence in basic cardiopulmonary resuscitation and shall be knowledgeable of the emergency medical resources available in the community in which the services are performed.

- Providers Must Demonstrate CPR Competence

(d) "Specialized physical health care services" as used in this section include catheterization, gavage feeding, suctioning, or other services that require medically related training.

- Definition of Services

(e) Regulations necessary to implement the provisions of this section shall be developed jointly by the State Department of Education and the State Department of Health Services, and adopted by the State Board of Education.

- Regulations

EARLY DIAGNOSIS OF LEARNING DISABILITIES

(Education Code - Part 27)

(AB 972 - Chapter 1376, Statutes of 1985)

Article 13. Early Diagnosis of Learning Disabilities

- Testing Program for Learning* Disability Problems

49580. The State Department of Education shall develop a testing program to be utilized at the kindergarten grade level to determine which pupils have a potential for developing learning disability problems. The testing procedure shall include an overall screening test for learning disabilities and testing for dyslexia. To the extent feasible, the department shall use existing tests and screening instruments in developing the early diagnosis of the learning disabilities testing program. In developing the program, the department shall consult with experts in the areas of learning and reading difficulties, including, but not limited to, neurologists, psychologists, persons working in these areas in postsecondary educational institutions, teachers, school nurses, education consultants, school psychologists, and other persons with appropriate knowledge and experience in the detection and treatment of learning problems and reading difficulties in early grades.

- Pilot Project

49581. The State Department of Education shall develop and implement a pilot project to determine the effectiveness and feasibility of implementing the early diagnosis of learning disabilities testing program developed pursuant to Section 49580. The pilot project shall administer the early diagnosis testing program to kindergarten aged pupils in order to identify pupils with the potential to develop learning disability problems. Pupils who are identified as having potential learning disability problems shall be referred to existing programs and services which are available to provide assistance.

- Guidelines for Early Diagnosis

49582. On or before January 1, 1986, the State Department of Education shall prescribe guidelines for the early diagnosis of the learning disabilities testing program and pilot project. The guidelines shall include but need not be limited to all of the following:

*(Article Added in 1985)

(a) A definition of "pupils with the potential to develop learning disability problems," as used in this article.

(b) The methods and criteria for selecting one or more sites for the establishment of the pilot project.

(c) The number of sites to be selected for purposes of establishing the pilot project.

(d) Criteria for judging the results and effectiveness of the early diagnosis testing program, as well as criteria for determining the feasibility for implementing the program at the conclusion of the pilot project.

- Report to Legislature

49583. On or before January 1, 1989, the State Department of Education shall submit a report to both educational policy committees of the Legislature regarding the results of the early diagnosis of the learning disabilities pilot project. The report shall include, but need not be limited to, an assessment of the degree to which the early diagnosis of learning disabilities in pupils participating in the pilot program resulted in a reduction of the need for later remedial education for those pupils, and the projected cost effectiveness of this early diagnosis.

DIFFERENTIAL PROFICIENCY STANDARDS

(Education Code - Part 28)

(As Amended By AB 283 -
Chapter 206, Statutes of 1982)

- Adoption of Standards of Proficiency in Basic Skills

51215. (a) The governing board of each school district maintaining a junior or senior high school shall, by June 1, 1978, adopt standards of proficiency in basic skills for pupils attending school within its school district.

(b) The governing board of each school district maintaining grade 6 or 8, or the equivalent, shall, by June 1, 1979, adopt standards of proficiency in basic skills for pupils attending these grades.

- Standards Include

(c) These standards shall include, but need not be limited to, reading comprehension, writing, and computation skills, in the English language, necessary to success in school and life experiences, and shall be such as will enable individual achievement to be ascertained and evaluated.

The standards shall be directly related to the district's instructional program.

- Related to Instructional Program

(d) Differential standards and assessment procedures which shall include, but need not be limited to, reading comprehension, writing, and computation skills, shall be adopted pursuant to this subdivision.

- Differential Standards and Assessment Procedures

(1) Differential standards and assessment procedures shall be adopted for pupils who:

(A) Are enrolled in special education programs pursuant to Part 30 (commencing with Section 56000); or for whom individualized education programs have been developed, and for whom the regular instructional program has been modified, as necessary, under the supervision of a person who holds an appropriate credential in special education; and

- For Special Education Pupils

(B) Have diagnosed learning handicaps or disabilities such that the individualized education program team determines they have not demonstrated evidence of the ability to attain the district's regular proficiency standards with appropriate educational services and support.

- Diagnosed Learning Disabilities

(2) If the team determines that these pupils have not demonstrated evidence of the ability to attain the district's regular proficiency standards with appropriate educational services and support, the team shall develop differential proficiency standards, or modify general differential standards adopted by the governing board, appropriate to the needs and potential of the pupil.

- IEP Determination

(3) Any differential standards shall be included in the individualized education program developed for the pupil pursuant to Part 30 (commencing with Section 56000).

- Differential Standards Included in IEP

(4) The determination and the development of differential proficiency standards shall be part of the process of developing, reviewing, and revising a pupil's individualized education program.

- Part of Ongoing Process

(5) In the case where one or more differential standards are developed for a pupil enrolled in special education, the standards may be maintained throughout the pupil's school experience, irrespective of whether the pupil continues to be enrolled in special education.

- May Be Maintained Throughout School Experience

(6) Nothing in this subdivision shall be construed to require differential proficiency standards for a pupil who a team determines can attain the district's regular proficiency standards with appropriate educational services and support.

- Not Required for Pupil Who Can Attain Regular Proficiency

(7) The provisions of this subdivision shall apply prospectively and retroactively to pupils enrolled in the 9th grade, or the equivalent thereof, during the 1977-78 school year or any school year thereafter.

- Application of Provisions

(8) Differential standards and assessment procedures adopted pursuant to this subdivision shall permit the pupil for whom they are adopted to attain the standards within a reasonable amount of time but not after the state is no longer required by state or federal law to provide an education to the pupil.

- Attain Standards Within Reasonable Amount of Time

(9) It is the intent of the Legislature that the attainment of a standard of proficiency by a pupil shall also reflect the attainment of a reasonable level of competence. The Legislature, therefore, recognizes that there may be some pupils who cannot meet regular or differential standards of proficiency, in reading, writing, and mathematics skills, and others who will need to remain in school beyond grade 12 or the equivalent in order to meet a standard which reflects their maximum potential.

- Reflect Reasonable Level of Competence

(10) For students with diagnosed learning disabilities, as well as for students participating in the regular school program, proficiency assessments may be part of the classroom experience, and teaching materials may be used as assessment materials.

- May Be Part of Classroom Experience

(e) Governing boards maintaining elementary or junior high schools located within a school district maintaining a high school shall adopt standards of proficiency in basic skills which are articulated with those standards adopted by the school district maintaining the high school.

- Articulation of Standards

(f) Designated employees of all school districts located within a high school district and one or more designees of the high school district shall meet prior to June 1, 1979, to plan for articulation of elementary and high school proficiency standards, and as necessary thereafter to review the effectiveness of such articulation procedures.

- Plan for Articulation of Standards

(g) Standards of proficiency shall be adopted by the governing board with the active involvement of parents broadly reflective of the socioeconomic composition of the district, administrators, teachers, counselors, and, with respect to standards in secondary schools, pupils.

- Active Involvement of Parents, Professionals, Pupils

WITHHOLDING OF DIPLOMA OF GRADUATION

(Education Code - Part 28)

(AB 3369 - Chapter 1333, Statutes of 1980)

- Standards of Proficiency in Basic Skills

51412. No diploma, certificate or other document, except transcripts and letters of recommendation, shall be conferred on a pupil as evidence of completion of a prescribed course of study or training, or of satisfactory attendance, unless such pupil has met the standards of proficiency in basic skills prescribed by the governing board of the high school district, or equivalent thereof, pursuant to Article 2.5 (commencing with Section 51215) of Chapter 2.

EARLY INTERVENTION FOR SCHOOL SUCCESS

(Education Code - Part 29)
(SB 1256 - Chapter 1530, Statutes of 1985)

Article 4.5. The Early Intervention for School Success Program

- Legislative Findings* and Declarations

54685. The Legislature finds and declares that many public school pupils enrolled in prekindergarten, kindergarten, and grade one have developmental deficiencies.

The Legislature also finds and declares that there is a need to do all of the following:

(1) To establish a system to identify pupils of the ages of four to seven years, inclusive, with developmental deficiencies.

(2) To implement appropriate instructional programs to reduce the frequency and severity of learning disabilities for these pupils in later years.

(3) To reduce the likelihood that these pupils eventually will need to be placed in remedial programs with higher costs.

The Legislature further finds and declares that the Early Prevention of School Failure Program, validated by the federal Joint Dissemination Review Panel as a proven educational practice, is a model capable of providing a comprehensive range of materials and services to identify and remediate developmental deficiencies in pupils of the ages of four to seven years, inclusive.

*(Article Added in 1985)

The Legislature recognizes that the Special Education Resource Network, which is currently administered by the State Department of Education, provides training and technical assistance to parents, teachers and school personnel, and other professionals in the appropriate assessment and education for students with special needs. It is the intent of the Legislature that the program established pursuant to this article shall compliment and not duplicate the programs provided by the Special Education Resource Network.

54685.1. It is the intent of the Legislature to do all of the following: - Legislative Intent

(1) To establish the Early Intervention for School Success Program which is an adaptation of the Early Prevention for School Failure Program.

(2) To implement the program at 200 public school sites within the state by June 1991.

(3) To enable school personnel, organized in child study teams, to acquire the skills necessary to identify developmental levels and learning styles of pupils and the necessary knowledge, techniques, and materials to provide appropriate instruction.

(4) To develop and identify model demonstration sites.

(5) To provide for the certification of school personnel as trainers at each demonstration site.

54685.2. The Superintendent of Public Instruction shall select one county superintendent of schools to manage the implementation of the Early Intervention for School Success Program by February 1, 1986. The county superintendent of schools shall develop a management plan for the implementation of the program at 200 public school sites within the state before July 1, 1991. - Selection of Manager

54685.3. The management plan required by Section 54685.2 shall include the following activities: - Management Plan Activities

(1) The dissemination of program information.

(2) The awarding of grants to schools representative of the ethnic, socioeconomic, and geographic diversity of the public school systems.

(3) Provisions for training, materials, and technical assistance.

(4) An adaptation of the Early Prevention of School Failure Program to meet local school needs, including identification of existing materials and development of new materials, if needed.

(5) Selection of successful sites as demonstration models for additional implementation of the plan.

(6) Certification of one primary teacher for each demonstration site to serve as a local trainer.

(7) Provisions for an annual program progress report by the county superintendent of schools and an evaluation of the program to the Legislature by the Legislative Analyst at the end of the third year.

54685.4. The selection of the county superintendent of schools for purposes of Section 54685.2 shall be based on a written application. The Superintendent of Public Instruction shall consider all of the following criteria: - Criteria for Manager

(1) Experience in disseminating local, regional, and statewide educational programs.

(2) Experience in managing local, regional, and statewide educational programs.

(3) A willingness to serve as a statewide dissemination agency.

(4) A demonstrated understanding of the Early Prevention of School Failure Program.

(5) Experience in providing materials, training, and technical assistance for the Early Prevention of School Failure Program.

(6) The ability to adapt the Early Prevention of School Failure Program to meet specific needs.

(7) A system for the selection of sites for implementing the Early Intervention for School Success Program.

(8) A system to identify model programs from among the sites selected to implement a program.

(9) A demonstrated ability and commitment to continue dissemination of the program after the termination of state funding.

54685.5. The county superintendent selected may accept or reject, at his or her option, designation as manager of the program. - Accept/Reject Manager Designation

54685.6. The selection of participating sites shall be based on a written application by the school district and the criteria listed in Section 54685.7. The criteria shall be verified by the school district's governing board prior to submission of the written application.

54685.7. The criteria to be used in selecting school sites as participants shall be based on the extent to which the school demonstrates all of the following: - School Site Selection Criteria

(1) A need for the program.

(2) The ability and commitment to disseminate the model program, to serve as a model site, to release a teacher certified as a trainer in the program, to collect evaluation data, and to demonstrate an interest to continue to employ successful programs after termination of state funding.

54685.8. The school district or school sites selected may accept or reject, at their option, designation as participating sites or demonstration models. - Accept/Reject Demonstration Model Designation

54685.9. The techniques of the Early Prevention of School Failure Model Program which shall be included in the Early Intervention for School Success Program include all of the following: - Techniques

(1) The use of a child study team approach for the assessment and identification of preacademic learning deficiencies in children between the ages of four to seven, inclusive, as appropriate.

(2) The use of screening instruments provided in English, Spanish, Laotian, Vietnamese, and Cambodian languages, for determination of students' developmental levels in language, auditory, visual, fine motor, and gross motor skills, adapted to meet California needs.

(3) The selection and application of educational materials appropriate to students' identified developmental levels.

54686. Training received by a teacher in techniques for the Early Intervention for School Success Program shall apply toward the requirement of professional growth, as required by subdivision (b) of Section 44277. - Professional Growth

54686.1. The county superintendent of schools selected pursuant to Section 54685.2, commencing with the 1987-88 fiscal year, shall annually report to the Legislature on the status of the implementation of the program, and shall include, but not be limited to, the number of school personnel trained, the number of schools implementing the program, the number of certified trainers available, and data on the impact of the program on student performance. At the end of the third year the Legislative Analyst shall evaluate the program and report his or her findings to the Legislature. - Report to Legislature

54686.2. This article shall remain in effect only until July 1, 1991, and of that date is repealed, unless a later enacted statute, which is enacted and becomes operative before July 1, 1991, deletes or extends that date. - Repeal Date of July 1, 1991

STATE SPECIAL SCHOOLS EXCESS COST PROVISION

(Education Code - Part 32)

(AB 61 - Chapter 1093, Statutes of 1981)

59300. Notwithstanding any provision of this part to the contrary, the district of residence of the parent or guardian of any pupil attending a state-operated school pursuant to this part, excluding day pupils, shall pay the school of attendance for each pupil an amount equal to 10 percent of the excess annual cost of education of pupils attending a state-operated school pursuant to this part.

- 10 Percent Excess Cost

EVALUATING THE EFFECTS OF ELIMINATING SIZE AND SCOPE REQUIREMENTS

(SB 585 - Chapter 1668, Statutes of 1984)

SEC. 4. (a) The State Department of Education shall evaluate the effects of eliminating the size and scope requirements pursuant to Section 56170.5 of the Education Code, and shall report to the Legislature on the results of this evaluation on or before November 1, 1985, and again, thereafter, on or before January 1, 1987. The evaluation shall include, but not be limited to, the following:

- Report to Legislature

(1) The impact on services to individuals with exceptional needs residing in the districts participating in the pilot study and residing in the geographic areas of the regions from which the participating districts withdrew.

(2) The impact on parent and pupil due process.

(3) The impact on special education costs, including, administrative costs.

(b) In addition to the evaluation required in subdivision (a), the report due on or before November 1, 1985, shall include an evaluation of the statewide effect of current size and scope requirements and special education governance structures. This evaluation shall consider, but shall not be limited to considering, the following:

- Evaluate Current Size/ Scope Requirements and Special Education Governance

(1) Services to individuals with exceptional needs.

(2) Parent and pupil due process rights.

(3) Special education costs, including administrative costs.

(4) Whether services are provided in an efficient and effective manner.

(c) The department shall conduct the studies required in subdivisions (a) and (b) using existing resources.

- Conduct Studies Using Existing Resources

(d) If the Superintendent of Public Instruction finds that the level of service to individuals with exceptional needs has declined in any of the geographic areas identified in paragraph (1) of subdivision (a) as a result of a district's implementation of Section 56170.5, the district shall be notified by the superintendent, and on July 1 following this notification, the school district shall rejoin the region from which it withdrew.

- Decline in Level of Services

INTERAGENCY RESPONSIBILITIES FOR RELATED SERVICES

(Government Code)

(AB 3632 - Chapter 1747, Statutes of 1984, As Amended by AB 882 - Chapter 1274, Statutes of 1985)

SECTION 1. The Legislature hereby finds and declares that a number of state and federal programs make funds available for the provision of education and related services to children with handicaps who are of school age. The Legislature further finds and declares that California has not maximized, or sufficiently coordinated existing state programs, in providing supportive services which are necessary to assist a handicapped child to benefit from special education.

- Legislative Findings and Intent

It is the intent of the Legislature that existing services rendered by state and local government agencies serving handicapped children be maximized and coordinated. It is the further intent of the Legislature that specific state and local interagency responsibilities be clarified by this act in order to better serve the educational needs of the state's handicapped children.

CHAPTER 26. INTERAGENCY RESPONSIBILITIES FOR PROVIDING SERVICES TO HANDICAPPED CHILDREN

- Joint Responsibility

7570. Ensuring maximum utilization of all state and federal resources available to provide handicapped children, as defined in subsection (1) of Section 1401 of Title 20 of the United States Code, with a free appropriate public education, the provision of related services, as defined in subsection (17) of Section 1401 of Title 20 of the United States Code, and designated instruction and services, as defined in Section 56363 of the Education Code, to handicapped children, shall be the joint responsibility of the Superintendent of Public Instruction and the Secretary of Health and Welfare. The Superintendent of Public Instruction shall ensure that this chapter is carried out through monitoring and supervision.

- Secretary May Designate Department to Assume Responsibilities

7571. The Secretary of Health and Welfare may designate a department of state government to assume the responsibilities described in Section 7570. The secretary, or his or her designee, shall also designate a single agency in each county to coordinate the service responsibilities described in Section 7572.

- Child Assessed in All Areas* Related to Suspected Handicap

7572. (a) A child shall be assessed in all areas related to the suspected handicap by those qualified to make a determination of the child's need for the service before any action is taken with respect to the provision of related services or designated instruction and services to a child, including, but not limited to, services in the areas of, occupational therapy, physical therapy, psychotherapy, and other mental health assessments. All assessments required or conducted pursuant to this section shall be governed by the assessment procedures contained in Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of the Education Code.

- OT/PT Assessments

(b) Occupational therapy and physical therapy assessments shall be conducted by qualified medical personnel as specified in regulations developed by the State Department of Health Services in consultation with the State Department of Education.

- Psychotherapy Assessment

(c) Psychotherapy and other mental health assessments shall be conducted by qualified mental health professionals as specified in regulations developed by the State Department of

*(Section Amended in 1985)

Mental Health, in consultation with the State Department of Education, pursuant to this chapter.

(d) A related service or designated instruction and service shall only be added to the child's individualized education program by the individualized education program team, as described in Part 30 (commencing with Section 56000) of the Education Code, if a formal assessment has been conducted pursuant to this section, and a qualified person conducting the assessment recommended the service in order for the child to benefit from special education. In no case shall the inclusion of necessary related services in a pupil's individualized education plan be contingent upon identifying the funding source. Nothing in this section shall prevent a parent from obtaining an independent assessment in accordance with subdivision (b) of Section 56329 of the Education Code, which shall be considered by the individualized education program team.

- Adding to IEP

(1) Whenever an assessment has been conducted pursuant to subdivision (b) or (c), the recommendation of the person who conducted the assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. When the proposed recommendation of the person has been discussed with the parent and there is disagreement on the recommendation pertaining to the related service, the parent shall be notified in writing and may require the person who conducted the assessment to attend the individualized education program team meeting to discuss the recommendation. The person who conducted the assessment shall attend the individualized education program team meeeting if requested. Following this discussion and review, the recommendation of the person who conducted the assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local educational agency.

- Related Service Recommendatio

(2) If an independent assessment for the provision of related services or designated instruction and services is submitted to the individualized education program team, review of that assessment shall be conducted by the person specified in subdivisions (b) and (c). The recommendation of the person who reviewed the independent assessment shall be reviewed and

- Independent Assessment

discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. The parent shall be notified in writing and may request the person who reviewed the independent assessment to attend the individualized education program team meeting to discuss the recommendation. The person who reviewed the independent assessment shall attend the individualized education program team meeting if requested. Following this review and discussion, the recommendation of the person who reviewed the independent assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local agency.

(3) Any disputes between the parent and team members representing the public agencies regarding a recommendation made in accordance with paragraphs (1) and (2) shall be resolved pursuant to Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of the Education Code.

- Resolving Recommendation Disputes

(e) Whenever a related service or designated instruction and service specified in subdivision (b) or (c) is to be considered for inclusion in the child's individualized education program, the local education agency shall invite the responsible public agency representative to meet with the individualized education program team to determine the need for the service and participate in developing the individualized education program. If the responsible public agency representative cannot meet with the individualized education program team, then the representative shall provide written information concerning the need for the service pursuant to subdivision (d) of this section. Conference calls, together with written recommendations, are acceptable forms of participation. If the responsible public agency representative will not be available to participate in the individualized education program meeting, the local educational agency shall ensure that a qualified substitute is available to explain and interpret the evaluation pursuant to subdivision (d) of Section 56341 of the Education Code. A copy of the information shall be provided by the responsible public agency to the parents or any adult pupil for whom no guardian or conservator has been appointed.

- Participation in Developing IEP

7572.5. (a) When an assessment is conducted pursuant to Article 2 (commencing with Section

- Expanded IEP Team and* Residential Recommendation

*(Section Amended in 1985)

56320) of Chapter 4 of Part 30 of Division 4 of the Education Code, which determines that a child is seriously emotionally disturbed, as defined in Section 300.5 of Title 34 of the Code of Federal Regulations, and any member of the individualized education program team recommends residential placement based on relevant assessment information, the individualized education program team shall be expanded to include a representative of the county mental health department.

(b) The expanded individualized education program team shall review the assessment and determine whether: - Review Assessment

(1) The child's needs can reasonably be met through any combination of nonresidential services, preventing the need for out-of-home care.

(2) Residential care is necessary for the child to benefit from educational services.

(3) Residential services are available which address the needs identified in the assessment and which will ameliorate the conditions leading to the seriously emotionally disturbed designation.

(c) If the review required in subdivision (b) results in an individualized education program which calls for residential placement, the individualized education program shall include all the items outlined in Section 56345 of the Education Code, and shall also include: - IEP Content

(1) Designation of the county mental health department as lead case manager. Lead case management responsibility may be delegated to the county welfare department by agreement between the county welfare department and the designated mental health department. The mental health department shall retain financial responsibility for provision of case management services.

(2) Provision for a review of the case progress, the continuing need for out-of-home placement, the extent of compliance with the individualized education program, and progress toward alleviating the need for out-of-home care, by the full individualized education program team at least every six months.

(3) Identification of an appropriate residential facility for placement with the assistance of the county welfare department as necessary.

7573. The Superintendent of Public Instruction shall ensure that local education agencies provide special education and those related - LEA Responsibility

services and designated instruction and services contained in a child's individualized education program that are necessary for the child to benefit educationally from his or instructional program. Local education agencies shall be responsible only for the provision of those services which are provided by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

7575. (a) (1) Notwithstanding any other provision of law, the State Department of Health Services, or any designated local agency administering the California Children's Services, shall be responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Section 250 et seq. of the Health and Safety Code, by reason of medical diagnosis and when contained in the child's individualized education program.

- Responsibility for Pro-* vision of OT/PT

(2) Related services or designated instruction and services not deemed to be medically necessary by the State Department of Health Services, which the individualized education program team determines are necessary in order to assist a child to benefit from special education, shall be provided by the local education agency by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

(b) The department shall determine whether a California Children's Services eligible pupil, or a pupil with a private medical referral needs medically necessary occupational therapy or physical therapy. A medical referral shall be based on a written report from a licensed physician and surgeon who has examined the pupil. The written report shall include the following:

- Determination for Medically Necessary Therapy

(1) The diagnosed neuromuscular, musculoskeletal, or physical handicapping condition prompting the referral.

(2) The referring physician's treatment goals and objectives.

(3) The basis for determining the recommended treatment goals and objectives, including how these will ameliorate or improve the pupil's diagnosed condition.

(4) The relationship of the medical disability to the pupil's need for special education and related services.

(5) Relevant medical records.

*(Section Amended in 1985)

(c) The department shall provide the service directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic nonsectarian school or agency.

- Providing the Service

(d) Local education agencies shall provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner.

- Space and Equipment

(e) The department shall also be responsible for providing the services of a home health aide when the local education agency considers a less restrictive placement from home to school for a pupil for whom both of the following conditions exist:

- Services of a Home Health Aide

(1) The California Medical Assistance Program provides a life-supporting medical service via a home health agency during the time in which the pupil would be in school or traveling between school and home.

(2) The medical service provided requires that the pupil receive the personal assistance or attention of a nurse, home health aide, parent or guardian, or some other specially trained adult in order to be effectively delivered.

7576. Notwithstanding any other provision of law, the State Department of Mental Health, or any community mental health service designated by the State Department of Mental Health, shall be responsible for the provision of psychotherapy or other mental health services, as defined by regulation by the State Department of Mental Health, developed in consultation with the State Department of Education, when required in the child's individualized education program. This service shall be provided directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic, nonsectarian school or agency.

- Responsibility for Provision* of Psychotherapy

7577. (a) The State Department of Rehabilitation and the State Department of Education shall jointly develop assessment procedures for determining client eligibility for State Department of Rehabilitation services for handicapped pupils in secondary schools to help them make the transition from high school to work. The assessment procedures shall be distributed to local education agencies.

- Assessment Procedures for Rehabilitation Services

(b) The State Department of Rehabilitation shall maintain the current level of services to secondary school pupils in project work ability and shall seek ways to augment services with funds which may become available.

- Project Work Ability

*(Section Amended in 1985)

7578. The provision of special education programs and related services for handicapped children residing in state hospitals shall be ensured by the State Department of Developmental Services, the State Department of Mental Health and the Superintendent of Public Instruction in accordance with Chapter 8 (commencing with Section 56850) of Part 30 of Division 4 of Title 2 of the Education Code.

- Programs for State Hospital Children

7579. (a) Prior to placing a handicapped child or a child suspected of being handicapped in a residential facility, outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic, nonsectarian special education program in a special education local plan area where the residential facility is located.

- Prior Notification on* Residential Placements

(b) Notwithstanding Section 56159 of the Education Code, the involvement of the administrator of the special education local plan area in the placement discussion, pursuant to subdivision (a), shall in no way obligate a public education agency to pay for the residential costs and the cost of noneducational services for a child placed in a licensed children's institution or foster family home.

- Involvement of SELPA Administrator

(c) It is the intent of the Legislature that this section will encourage communication between the courts and other public agencies which engage in referring children to, or placing children in, residential facilities, and representatives of local education agencies. It is not the intent of this section to hinder the courts or public agencies in their responsibilities for placing handicapped children in residential facilities when appropriate.

- Encourage Communication - Not Hinder Placement

7580. Prior to licensing a community care facility, as defined in Section 1502 of the Health and Safety Code, in which a handicapped child may be placed, or prior to a modification of such a facility's license to permit expansion of the facility, the State Department of Social Services shall consult with the administrator of the special education local plan area in order to consider the impact of licensure upon local education agencies.

- Community Care Facility Impact on Education

*(Section Amended in 1985)

7581. The residential and noneducational costs of a child placed in a medical or residential facility by a public agency, other than a local education agency, or independently placed in a facility by the parent of the child, shall not be the responsibility of the state or local education agency, but shall be the responsibility of the placing agency or parent.

- Responsibility for Residential/Noneducational Costs

7582. Assessments and therapy treatment services provided under programs of the State Department of Health Services or the State Department of Mental Health, or their designated local agencies, rendered to a child referred by a local education agency for an assessment or a handicapped child with an individualized education program, shall be exempt from financial eligibility standards and family repayment requirements for these services when rendered pursuant to this chapter.

- Exemption from Financial* Eligibility Standards/ Repayment

7583. Each local agency affected by this chapter shall estimate expenditures which were previously borne by the agency which will, as a result of enactment of this chapter, shift to another agency, or shall identify and estimate its responsibility for expenditures which will be acquired by the agency as a result of enactment of this chapter. The agency shall report the estimated shifts in responsibility in costs through appropriate state agencies by March 15, 1985, and report actual shifts in expenditures annually by March 15 in subsequent years. The appropriate state agencies shall submit this information to the Department of Finance annually by April 30.

- Estimate Expenditures*

(b) The Department of Finance shall, in the annual Budget Act, recommend appropriate adjustments, if any, in allocations and entitlements to local agencies to reflect any shifts in expenditures caused by this chapter.

- Department of Finance Recommends Appropriate Adjustments

(c) Any reductions in state allocations for local educational agencies resulting from this chapter shall be applied equally on a pro rata basis by the Superintendent of Public Instruction.

- Reductions in State Allocations Applied on Pro Rata Basis

(d) By January 15, 1985, the superintendent and the Secretary of Health and Welfare shall jointly develop uniform data collection forms to be used by local agencies in reporting under this section.

- Uniform Data Forms

(e) This section shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends this date.

- July 1, 1986 Repeal Date

*(Sections Amended in 1985)

7584. As used in this chapter, "handicapped children", "child," or "pupil" means individuals with exceptional needs as defined in Section 56026 of the Education Code.

- Definition of "Handicapped Children"

7585. (a) Whenever any department or any local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575 or 7576, and specified in the child's individualized education program, the parent, adult pupil, or any local education agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of Health and Welfare.

- Failure to Provide a Service

(b) When either the Superintendent of Public Instruction or the Secretary of Health and Welfare receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The superintendent, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local education agency, and affected departments, within 10 days of the meeting.

- Superintendent and Secretary of Health and Welfare Meet to Resolve Issue

(c) If the issue cannot be resolved within 15 calendar days to the satisfaction of the superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative Hearings, or his or her designee, in the State Department of General Services.

- Submit Unresolved Issue to Office of Administrative Hearings

(d) The Director of the Office of Administrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the Director of the Office of Administrative Hearings, or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

- Decision Binding

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local education agency, either party may appeal to the Director of the Office of Administrative Hearings, whose decision shall be the final administrative determination and binding on all parties.

- Appeal

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service. The Superintendent of Public Instruction and the Secretary of Health and Welfare shall ensure that funds are available for provision of the service pending resolution of the issue pursuant to subdivision (e). - Services Pending Dispute Resolution

(g) Nothing in this section prevents a parent or adult pupil from filing for a due process hearing under Section 7586. - Due Process Hearing

(h) The Superintendent of Public Instruction and the Secretary of Health and Welfare shall submit to the Legislature on July 1 of each year a joint report on the written notifications received pursuant to subdivision (a) on the failure of departments or their designated local agencies to provide occupational therapy, physical therapy, or psychotherapy. This joint report shall include, but not be limited to, a description of the nature of these disputes, a summary of the outcomes of these disputes, and any recommendations for changes to the procedure set forth in subdivision (a) or with regard to any interagency agreement and regulations which might exist as a result of the implementation of this chapter. - Report to Legislature

(i) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section. - Payment for Office of Administrative Hearings' Services

7586. (a) All state departments, and their designated local agencies shall be governed by the procedural safeguards required in Section 1415 of Title 20 of the United States Code. A due process hearing arising over a related service or designated instruction and service shall be filed with the Superintendent of Public Instruction. Resolution of all issues shall be through the due process hearing process established in Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of the Education Code. The decision issued in the due process hearing shall be binding on the department having responsibility for the services in issue as prescribed by this chapter. - Procedural Safeguards

(b) Upon receipt of a request for a due process hearing involving an agency other than an - Notification of Hearing Request

educational agency, the Superintendent of Public Instruction shall immediately notify the state and local agencies involved by sending a copy of the request to the agencies.

- Notification of Hearing Request

(c) All hearing requests that involve multiple services that are the responsibility of more than one state department shall give rise to one hearing with all responsible state or local agencies joined as parties.

- One Hearing

(d) No public agency, state or local, may request a due process hearing pursuant to Section 56501 of the Education Code against another public agency.

- Restriction on Public Agency Hearing Requests

7586.5. Not later than January 1, 1988, the Superintendent of Public Instruction and the Secretary of Health and Welfare shall jointly submit to the Legislature and the Governor a report on the implementation of this chapter. The report shall include, but not be limited to, information regarding the number of complaints and due process hearings resulting from this chapter.

- Report on Implementation* of Law

7586.7. The Superintendent of Public Instruction and the Secretary of Health and Welfare shall jointly prepare and implement within existing resources a plan for in-service training of state and local personnel responsible for implementing the provisions of this chapter.

- In-Service Training*

7587. By January 1, 1986, each state department named in this chapter shall develop regulations, as necessary, for the department or designated local agency to implement this act. All regulations shall be reviewed by the Superintendent of Public Instruction prior to filing with the Office of Administrative Law, in order to ensure consistency with federal and state laws and regulations governing the education of handicapped children. The directors of each department shall adopt all regulations pursuant to this section as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law shall not be subject to automatic repeal until 180 days after the regulations take effect; and shall become effective immediately upon filing

- Regulations**

*(Sections Added in 1985)
**(Section Amended in 1985)

with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

7588. This chapter shall become operative on July 1, 1986, except Section 7583 which shall become operative on January 1, 1985.

- July 1, 1986 Operative Date

SEC. 15.5. (a) The Legislature recognizes that current estimates of the number of severely emotionally disturbed children in the state who need 24-hour out-of-home care may be less than the number of children in need of such care as determined appropriate through the Individual Education Plan (IEP) process established under Chapter 1747, of the Statutes of 1984.

(b) Therefore, the State Department of Social Services and the State Department of Education shall jointly report to the Joint Legislative Budget Committee by January 1, 1988, regarding any growth in the number of severely emotionally disturbed children determined to need 24-hour out-of-home care as a result of Chapter 1747 of the Statutes of 1984. This report shall include documentation of the cost impacts on the state, county, and federal governments for the cost of 24-hour out-of-home care for these children.

- Report on Growth in Number* of Seriously Emotionally Disturbed Children Needing Out-of-Home Care

SEC. 16. Funds not to exceed the total amount reported by the State Department of Education, as verified by the Department of Finance pursuant to Section 7583 of the Government Code and Section 4 of Chapter 1747 of the Statutes of 1984, shall be transferred July 1, 1986, from the State Department of Education to the state departments responsible for services specified in Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and designated in each pupil's individualized education program.

- Transfer of Funds*

SEC. 18. The sum of one million six hundred thousand dollars ($1,600,000) is hereby appropriated from the General Fund to the State Department of Mental Health for purposes of conducting assessments and participating in developing individualized education programs as required by Chapter 26 (commencing with Section 7570 of Division 7 of Title 1 of the Government Code, during the period of March 1, 1986 through June 30, 1986. Notwithstanding Section 5705 of the Welfare and Institutions Code, expenditures made by a community mental health service designated by the State Department of Mental Health to provide the services described in this section shall be financed on a basis of 100 percent state funds during the period from March 1, 1986, to June 30, 1986, inclusive.

- Appropriation for Mental* Health Assessments

*(Noncodified Sections Added in 1985)

SERIOUSLY EMOTIONALLY DISTURBED
OUT-OF-HOME CARE

(Welfare and Institutions Code)
(AB 882 - Chapter 1274, Statutes of 1985)

CHAPTER 6. SERIOUSLY EMOTIONALLY DISTURBED CHILDREN: 24-HOUR OUT-OF-HOME CARE - 24-HOUR OUT-OF-HOME CARE*

18350. (a) Payments for 24-hour out-of-home care shall be provided under this chapter on behalf of any seriously emotionally disturbed child who has been placed out-of-home pursuant to an individualized education program developed under Section 7572.5 of the Government Code. These payments shall not constitute an aid payment or aid program. - Payments

(b) Payments shall only be made to children placed in privately operated residential facilities licensed in accordance with the Community Care Facilities Act.

(c) Payments shall be based on rates established in accordance with Sections 11461, 11462, and 11463 and shall be based on providers' actual allowable costs.

(d) Payments for 24-hour out-of-home care under this section shall not result in any cost to the seriously emotionally disturbed child or his or her parent or parents.

18351. (a) Payments shall be issued by the county welfare department to residential care providers upon receipt of authorization documents from the State Department of Mental Health or a designated county mental health agency. The county welfare department located in the same county as the county mental health agency designated to provide case management services shall be responsible for payment under this section. Authorization documents shall be submitted directly to the county welfare department clerical unit responsible for issuance of warrants and shall include information sufficient to demonstrate that the child meets all eligibility criteria established in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education. - Issued by County Welfare Department

(b) The county welfare department shall submit reports to the State Department of Social Services for reimbursement of payments issued to seriously emotionally disturbed children for 24-hour out-of-home care.

*(Chapter Added in 1985)

18352. County welfare departments may, at their option and with approval of the State Department of Social Services and other appropriate agencies, enter into agreements with other local agencies for the delivery of a single payment for all related services for a seriously emotionally disturbed child to a residential care provider.

- Agreements for Single Payment

18353. When an individualized education program calls for 24-hour out-of-home care, the county welfare department shall provide assistance, as necessary, in identifying a facility suited to the child's needs and in placing the child in the facility.

- Provide Assistance in Identifying Facility

18354. (a) If a provider of 24-hour out-of-home care to a child who has been placed pursuant to Section 7572.5 of the Government Code in a 24-hour out-of-home placement disputes an action of the designated county mental health agency regarding the providers eligibility for payment, the provider may request a review of the issue by the designated county mental health agency. Designated county mental health agencies may establish policies and procedures, as may be necessary, to implement this subdivision.

- Disputes Regarding the Provider's Eligibility For Payment

(b) If the issue remains unresolved after the review by the designated county mental health agency, then the provider may request a review of the issue by the State Department of Mental Health. The Director of Mental Health may establish policies and procedures, as may be necessary, to implement this subdivision. The review under this subdivision shall be limited to the issue of whether the eligibility for payment criteria established by the State Department of Mental Health was correctly applied.

18355. Notwithstanding any other provision of the law, 24-hour out-of-home care for seriously emotionally disturbed children who are placed in accordance with Section 7572.5 of the Government Code shall be funded from a separate appropriation in the budget of the State Department of Social Services in order to fund both 24-hour out-of-home care payment and local administrative costs. Reimbursement for 24-hour out-of-home care payment costs shall be from that appropriation, subject to the same sharing ratio as prescribed in subdivision (c) of Section 15200, and available funds. Reimbursements for local administrative costs shall also be from that appropriation, subject to the same sharing ratio as prescribed in Section 15204.2 for the Aid to Families with Dependent Children program, and available funds.

- Separate Appropriation

EARLY INTERVENTION SERVICES ACT

(Government Code)

(AB 114 - Chapter 26, Statutes of 1985)

TITLE 14. CALIFORNIA EARLY INTERVENTION SERVICES ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS - GENERAL PROVISIONS*

Article 1. General Provisions

95000. This title may be cited as the California Early Intervention Services Act. - Title

95001. The Legislature finds that handicapped and high-risk infants now survive the newborn period due to greatly improved surgical and medical care services; however, in many communities, services which provide the careful nurturing and stimulation that these infants need to develop to their potential are not available. The Legislature hereby finds and declares that individualized early intervention services for infants, who are at high risk or who have a handicapping condition, and for their families, which provide educational, developmental, health, and social services with active parent involvement, can significantly reduce the potential impact of many handicapping conditions and positively influence later development when the child reaches school age. - Legislative Findings

The Legislature further finds that infants have unique needs and therefore require both a unique service delivery model, which may be different from any system currently in place in California, and unique program and personnel standards specific to the needs of infants who are at high risk or who have a handicapping condition and their families.

The Legislature further acknowledges that early intervention services are cost-effective, in that these services frequently make productive citizens of children and eliminate the far greater costs of long-term remedial treatment for, and unnecessary lifelong dependency on others.

95002. It is the intent of the Legislature that those agencies which possess the greatest expertise in providing early intervention services to infants and their families in the past continue to provide these services. It is the further intent of the Legislature that - Legislative Intent

*(Title Added in 1985)

existing early intervention services rendered by state and local public agencies and private agencies be coordinated and maximized through interagency services with specific state and local government responsibilities.

95003. It is the intent of the Legislature that the State Department of Health Services, the State Department of Developmental Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Education work together to provide coordinated, interagency services to handicapped and high-risk infants and their families.

95004. It is the intent of the Legislature that the interagency task force established pursuant to this title not duplicate the effort of state or local agencies which are required to plan for or provide early intervention services.

This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

95005. (a) It is the intent of the Legislature that recommendations regarding the delivery of early intervention services take into consideration the experience of the demonstration projects established pursuant to Chapter 3 (commencing with Section 95039), and that no changes in the delivery of those services occur without explicit legislative authorization.

(b) It is the purpose of this title to carry out and make effective the findings and intent of the Legislature and, to that end, to establish a comprehensive and coordinated system for delivery of early intervention services to infants and their families.

This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative, and is repealed.

- Repeal Date of January 1, 1989

95006. It is the intent of the Legislature that early intervention services funded by state moneys shall be maintained at, or above, the 1984-85 fiscal year funding level.

This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

- Repeal Date of January 1, 1989

Article 2. Definitions

- DEFINITIONS

95010. Unless the context otherwise requires, the definitions prescribed by this article apply to the construction of this title.

95011. "Crisis intervention services" means counseling and resource services provided to families of infants determined to be at risk by a physician or other qualified professional.

- Crisis Intervention Services

95012. "Early intervention services" means those educational, developmental, health, and social services which are essential for an infant's development. These services include, but are not limited to, early identification, evaluation, and assessment; early educational, developmental, and therapeutic services, including speech and language, physical, and ocupational therapy, visual services, audiological services, crisis intervention services, and transportation services. Early intervention services also include services to the family which are essential to the infant's development, such as respite care, psychosocial support, health and nutritional consultation, and parent education. These services may vary in number and intensity, according to the individual infant and family as expressed in the individualized infant service plan. Early intervention services do not include surgical and hospitalization services, routine medical care, or residential care services.

- Early Intervention Services

95013. "Infant" means a child from the ages of birth to three years.

- Infant

95014. Infants eligible for early intervention services provided by demonstration projects pursuant to this title are those who meet one of the following:

- Eligibility

(a) Infants who have a handicapping condition as defined in paragraph (1) of Section 1401 of Title 20 of the United States Code, or in paragraph (7) of Section 6001 of Title 42 of the United States Code, as those provisions read on January 1, 1984.

(b) Infants who are at high risk of developing a handicapping condition, as defined in guidelines approved by the Secretary of Health and Welfare for inclusion in the request for proposals for demonstration projects. The guidelines shall conform to the eligibility guidelines utilized by the regional centers operated under the jurisdiction of the State Department of Developmental Services and the Maternal and Child Health Branch of the State Department of Health Services.

This article shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

- Repeal Date of January 1, 1989

CHAPTER 2. INTERAGENCY TASK FORCE ON EARLY INTERVENTION SERVICES

- TASK FORCE

95030. The infant subcommittee of the State Planning Grant Advisory Committee, which also serves as the early intervention subcommittee of the Prevention Task Force of the State Health and Welfare Agency, shall serve as the Interagency Task Force on Early Intervention Services.

- Designation

95031. Membership of the task force provided for in Section 95030 shall, when the task force acts pursuant to this title, include all of the following:

- Membership

(a) At least two parents of children who have received or are receiving early intervention services.

(b) Public providers and private providers of health, developmental, and educational early intervention services.

(c) Representatives from the State Department of Developmental Services, the State Department of Mental Health, and the State Department of Social Services.

95032. Staff to the task force shall be selected by the Secretary of Health and Welfare and the Superintendent of Public Instruction, jointly, taking into consideration the recommendations of the task force named pursuant to Section 95030.

- Selection of Staff

95033. The duties of the interagency task force shall include, but not be limited to, all of the following:

- Duties of Task Force

(a) The submission of recommendations pertaining to the operation of the interagency demonstration projects to the Secretary of Health and Welfare and Superintendent of Public Instruction regarding all of the following:

(1) Interagency demonstration projects as provided in Section 95040. The interagency demonstration projects shall represent various administrative structures.

(2) Interagency monitoring, data collection, and program evaluation procedures.

(3) A definition of "high risk" which conforms with the eligibility guidelines utilized by the

State Department of Health Services' Maternal and Child Health Branch and the regional centers operated under the jurisdiction of the State Department of Developmental Services.

(4) The need for waivers of state or federal law, as appropriate, to facilitate operation of the demonstration projects.

(b) On or before July 1, 1987, the submission of interim recommendations and on or before November 1, 1987, final recommendations to the Secretary of Health and Welfare and the Superintendent of Public Instruction regarding all of the following:

(1) A plan to avoid the duplication of the efforts of state and local agencies which have the responsibility to plan for or provide early intervention services.

(2) Procedures for assessing infant and family needs on a statewide basis, and for coordinating all available federal, state, and local resources to meet those needs.

(3) An interagency method of providing early intervention services to infants and their families.

(4) Procedures for assessing personnel needs on a statewide basis, and strategies to meet those needs.

(5) Incentives to be offered for private sources to maintain present commitments and to assist in developing new programs.

(6) A uniform and appropriate system to ensure procedural safeguards, including, but not limited to, complaint filing and due process hearing procedures, for all infants and their parents who receive early intervention services.

(7) A procedure for the provision of technical assistance.

(8) A statewide standard for programs and personnel.

(9) A funding mechanism. It is the intent of the Legislature that this mechanism be developed with the cooperation of the Department of Finance and the Legislative Analyst.

(10) A structure to administer early intervention services which address the unique characteristics of the area served by the project.

(11) The need for waivers of federal law, as appropriate, to overcome barriers to interagency early intervention services.

(c) The evaluation of the interagency demonstration projectr selected pursuant to Section 95039. The evaluation shall commence

January 1, 1986, and shall be completed by January 1, 1988. The evaluation shall include, but not be limited to, a comparison of all of the following elements of the interagency demonstration projects:

(1) Administrative structure.

(2) Case management systems.

(3) Interagency coordination models.

(4) The efficiency of delivery systems.

(5) The potential for short-term and long-term cost savings to the departments listed in subdivision (c) of Section 95031.

95034. (a) The first meeting of the interagency task force shall be convened by the Secretary of Health and Welfare and the Superintendent of Public Instruction on or before April 15, 1985. The interagency task force shall meet at least six times each year. - Meetings

(b) The interagency task force may consult with additional persons, advisory bodies, and government agencies, as necessary.

95035. (a) All members of the interagency task force shall serve without compensation, except that members, other than state employees, shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses, and except that travel expenses of state employees shall be incurred by their respective departments. - Task Force Compensation

(b) Each department specified in subdivision (c) of Section 95031 shall delegate staff time and provide for necessary expenses from its existing budget for its staff members assisting the interagency task force.

(c) The expenses of members other than state employees shall be borne by the task force through its existing funds as of the effective date of this section.

95037. This chapter shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed. - Repeal Date of January 1, 1989

CHAPTER 3. INTERAGENCY DEMONSTRATION PROJECTS - DEMONSTRATION PROJECTS

95039. The Secretary of Health and Welfare and the Superintendent of Public Instruction, or their designees, shall meet as necessary to do all of the following: - Duties of Secretary of Health and Welfare and Superintendent of Public Instruction

(a) Select interagency demonstration projects to receive funding as provided in Section 95040 by December 1, 1985.

(b) Review and act on recommendations of the interagency task force pursuant to Section 95033 as deemed appropriate.

(c) Prepare recommendations to the policy and fiscal committees of the Legislature and to the Governor. Interim recommendations shall be submitted by September 1, 1987, and final recommendations shall be submitted by January 1, 1988. These recommendations shall take into consideration the evaluation conducted pursuant to subdivision (c) of Section 95033 and the recommendations submitted by the interagency task force pursuant to Section 95033.

(d) Foster interagency coordination and commitment to provide early intervention services for infants and their families.

- Solicitation of Proposals

95040. (a) The interagency task force established pursuant to Chapter 2 (commencing with Section 95030) shall solicit proposals on or before July 15, 1985, for the establishment of interagency demonstration projects to be conducted from January 1, 1986, to June 30, 1988, inclusive, for the purpose of exploring effective means of coordinating and delivering interagency early intervention services for infants and their families within specific geographic boundaries. Both existing and new programs which serve handicapped and high-risk infants shall be eligible to be considered. The interagency task force shall submit recommendations to the Secretary of Health and Welfare and the Superintendent of Public Instruction regarding which proposals should receive funding pursuant to this chapter.

(b) Taking into consideration the recommendations submitted by the interagency task force pursuant to subdivision (a), the Secretary of Health and Welfare and the Superintendent of Public Instruction shall select three interagency demonstration projects to receive funding pursuant to this chapter. Both existing and new programs which serve handicapped and high-risk infants shall be eligible to be selected. In order to be eligible to receive funding pursuant to this chapter, an interagency demonstration project shall meet all of the requirements established in this chapter.

- Interdisciplinary Team

95041. (a) Interagency demonstration projects shall ensure that an interdisciplinary team, which includes the infant's parent or guardian,

develops a service plan for each infant to meet the infant's educational, developmental, health, and social service needs. The plan shall be based on the assessment and recommendations of appropriately qualified professionals and of the infant's parent or guardian.

(b) Interagency demonstration projects shall provide early intervention services through interagency coordination, and shall develop written procedures for the provision of those coordinated services. These procedures shall include, but not be limited to, all of the following:

- Interagency Coordination/ Written Procedures

(1) A description of exisiting public and private programs and early intervention services available to infants and their families within the area covered by the interagency demonstration project, including, but not limited to, the number of infants and their families served and the type of services provided.

(2) An assessment of any remaining unmet needs.

(3) A description of the intake procedure, including public awareness and outreach activities.

(4) A description of the case management system.

(5) A description of the process for coordinating all of the following:

(A) Referral services among agencies.

(B) Evaluation and assessment services.

(C) The development, implementation, and annual review of each infant's service plan by an interdisciplinary team.

(6) A description of placement alternatives, including programs which foster integration opportunities for infants and their families receiving early intervention services.

95042. (a) Each interagency demonstration project shall include the participation of local public agencies and private agencies representing health, mental health, social services, education, and developmental services, as appropriate, and parents of infants receiving or having received early intervention services. The local agencies participating in the demonstration project shall determine all of the following:

- Local Participation

(1) A specific administrative structure to plan and maintain the coordination of services.

(2) The specific geographic area served by the interagency demonstration project.

(b) Each interagency demonstration project shall make the procedures developed pursuant to

subdivision (b) of Section 95041 available to the public, including local governing boards and advisory committees.

95043. Each interagency demonstration project shall ensure that applicable requirements prescribed by the federal Education for All Handicapped Children Act of 1975 (20 U.S.C. Sec. 1232, P.L. 94-142), as amended, are established and maintained by the agencies providing early intervention services as part of the interagency demonstration project.

- Federal Compliance

95044. Each interagency demonstration project shall submit a comprehensive written report to the interagency task force by June 1 of each year of operation. The report shall include, but not be limited to, recommendations regarding the implementation of coordinated interagency early intervention services. These recommendations shall include, but not be limited to, all of the following:

- Written Report

(a) Identification of any barriers to coordination of services imposed by federal or state law, and recommended solutions to those barriers, including requests for waivers.

(b) Suggested definitions and eligibility criteria for early intervention services.

95045. (a) The sum of eighteen thousand five hundred dollars ($18,500) is hereby appropriated from the General Fund to the Secretary of Health and Welfare for the 1984-85 fiscal year for provision of administrative staff to the task force.

- Funding for Demonstration Projects

(b) The sum of twenty thousand dollars ($20,000) is hereby appropriated, without regard to fiscal years, from the General Fund to the Secretary of Health and Welfare for provision of a third party evaluation of the demonstration projects. These funds shall be available for encumbrance only during the 1985-86, 1986-87, and 1987-88 fiscal years.

(c) The sum of one hundred forty-five thousand dollars ($145,000) is hereby appropriated from the General Fund to the Secretary of Health and Welfare for the 1985-86 fiscal year as follows:

(1) Seventy thousand dollars ($70,000) for provision of administrative staff to the task force.

(2) Seventy-five thousand dollars ($75,000) for grants to the demonstration projects for provision of administrative staff.

(d) It is the intent of the Legislature that funds for provision of administrative staff to the task force and grants for the demonstration

projects for provision of administrative staff be provided through appropriations in the Budget Act for the 1986-87 and 1987-88 fiscal years.

95046. This chapter shall become inoperative on July 1, 1988, and as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

- Repeal Date of January 1, 1989

INSTRUCTIONAL PERSONNEL SERVICE UNITS USED FOR INFANTS

(SB 1264 - Chapter 1603, Statutes of 1985)

SEC. 11.5. For the 1985-86 fiscal year, instructional personnel service units which were used in the 1984-85 fiscal year to provide services to children younger than three years of age shall be excluded from computations made pursuant to Section 56728.6 of the Education Code, but shall be included in computations made pursuant to Section 56728.8 of the Education Code.

LIST OF SPECIAL EDUCATION CODE SECTIONS/LEGISLATIVE BILLS

EDUCATION CODE - PART 30. SPECIAL EDUCATION PROGRAMS

The following is a list of special education code sections and the most recent legislative bills which affected them.*

EDUCATION CODE SECTION	LEGISLATIVE BILL NUMBER	EDUCATION CODE SECTION	LEGISLATIVE BILL NUMBER	EDUCATION CODE SECTION	LEGISLATIVE BILL NUMBER
56000	SB 1870	56132	SB 1870	56222	AB 817
56000.5	AB 1892	56133	AB 3075	56240	SB 1870
56001	AB 507	56134	SB 769	56241	SB 1870
56020	SB 1870	56135	AB 817	56242	SB 1870
56021	SB 1870	56136	AB 2652	56243	SB 1870
56022	SB 1870	56137	AB 1892	56300	SB 1870
56023	SB 1870	56140	SB 585	56301	AB 3075
56024	SB 1870	56150	AB 456	56302	SB 1870
56025	SB 1870	56155	AB 817	56303	SB 1870
56026	AB 3075	56155.5	AB 456	56320	AB 2652
56026.5	AB 2652	56156	AB 817	56321	SB 1345
56027	SB 1870	56156.5	SB 1345	56322	SB 1345
56028	SB 1870	56156.6	AB 817	56323	SB 1870
56029	SB 1870	56157	AB 456	56324	AB 3075
56030	SB 1870	56159	AB 817	56325	AB 456
56030.5	SB 769	56160	AB 817	56326	SB 1870
56031	SB 1870	56161	AB 1537	56327	AB 2652
56032	SB 1870	56162	SB 1345	56328	SB 1870
56033	SB 1870	56163	AB 817	56329	SB 1345
56040	AB 3075	56164	AB 817	56333	AB 3075
56050	AB 817	56165	AB 817	56337	SB 1870
56060	SB 1870	56166	AB 817	56338	AB 3075
56061	SB 1870	56166.5	AB 817	56340	SB 1870
56062	SB 1870	56167	AB 817	56341	SB 1345
56063	SB 1870	56168	AB 817	56342	SB 1345
56100	AB 456	56169	SB 1345	56343	SB 1345
56101	SB 1870	56169.5	AB 817	56343.5	AB 456
56120	SB 1870	56170	SB 585	56344	AB 3049
56121	SB 1870	56170.5	SB 585	56345	AB 2652
56122	SB 1870	56171	AB 1055	56345.5	SB 1870
56123	SB 1870	56172	SB 1870	56346	SB 1870
56124	SB 1870	56190	SB 1870	56347	AB 3043
56125	SB 1870	56191	AB 1055	56360	SB 1870
56126	SB 1870	56192	SB 1870	56361	SB 1870
56127	SB 1870	56193	SB 1870	56361.5	AB 92
56128	SB 1870	56194	AB 817	56362	AB 456
56129	SB 1870	56200	SB 1345	56362.1	AB 1055
56130	SB 1870	56220	AB 456	56362.5	SB 1634
56131	SB 1870	56221	SB 1345	56362.7	SB 386

*Bills Enacted in 1980: SB 1870, AB 507, AB 1202, AB 3043, AB 3075
*Bills Enacted in 1981: SB 769, SB 1192, AB 92, AB 159, AB 817, AB 933, AB 1055
*Bills Enacted in 1982: SB 386, SB 1345, SB 2058, AB 2652, AB 3049
*Bills Enacted in 1983: SB 679, SB 813, AB 1892
*Bills Enacted in 1984: SB 585, SB 1379, SB 1634, AB 2841, AB 3007
*Bills Enacted in 1985: SB 1264, AB 72, AB 456, AB 982, AB 1537, AB 1807, AB 2557

EDUCATION COC SECTION	EGISLATIVE ILL NUMBER
56363	AB 1892
56363.3	SB 1345
56363.5	SB 1345
56364	SB 1192
56364.1	AB 2652
56364.5	AB 817
56365	SB 1345
56365.5	SB 769
56366	AB 817
56366.1	AB 817
56366.5	AB 3075
56367	SB 1345
56368	SB 1345
56369	AB 3075
56380	SB 1345
56381	AB 3075
56400	AB 456
56425	SB 1264
56426	AB 817
56427	SB 1264
56428	SB 1264
56429	AB 2557
56430	SB 1345
56450	AB 817
56451	AB 817
56452	AB 3075
56453	AB 3075
56454	SB 2058
56456	AB 3075
56460	AB 72
56461	AB 72
56462	AB 2841
56463	AB 2841
56464	AB 2841
56475	AB 817
56500	SB 1870
56500.1	AB 3043
56500.2	AB 3043
56501	AB 3075
56502	AB 3075
56503	AB 159
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56505	SB 1345
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56600	SB 1870
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56700	SB 1870
56701	SB 1870
56702	SB 1870
56710	SB 1870
56711	SB 1264
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56713	SB 1345
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56721	AB 3075
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56725	AB 3075
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56728	SB 769
56728.5	AB 1537
56728.6	SB 1264
56728.8	SB 1264
56730	SB 1870
56730.5	SB 1264
56730.6	SB 769
56731	SB 769
56732	SB 769
56733	SB 1870
56734	SB 769
56735	SB 769
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56738	SB 769
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56741	AB 3007
56742	SB 769
56743	SB 769
56750	SB 1870
56751	SB 769
56752	AB 3075
56753	AB 3075
56754	AB 3075
56760	SB 1264
56761	AB 3075
56762	SB 1870
56771	SB 1264
56775	AB 1537
56775.5	AB 1537
56776	AB 1537
56777	AB 1537
56780	AB 456
56781	AB 456
56782	AB 456

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56820	SB 1870
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56822	SB 1870
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56824	SB 1870
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56826	SB 1870
56827	SB 1870
56828	AB 456
56829	SB 769
56830	SB 1264
56850	AB 1202
56851	SB 1345
56852	SB 1345
56852.5	SB 1345
56853	SB 1345
56854	SB 1345
56855	AB 1202
56856	SB 1345
56857	SB 679
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56858	AB 982
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56858.7	SB 1345
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56860	SB 1345
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56864	SB 1345
56865	SB 1345
56875	AB 817
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56877	AB 817
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56879	AB 817
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56881	AB 817
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